

THE
OFFICES
OF

*Constables, Church-Wardens,
Overseers of the Poor, Supra-
visors of the High-Wayes,
Treasurers of the County-Stock;
And some other lesser Countrey
Officers, plainly and lively set forth*

The Fifth Edition, with divers
Additions and Alterations, agreeable to
the late Acts and Ordinances.

By WILLIAM SHEPPARD Esq;

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THE
OFFICE

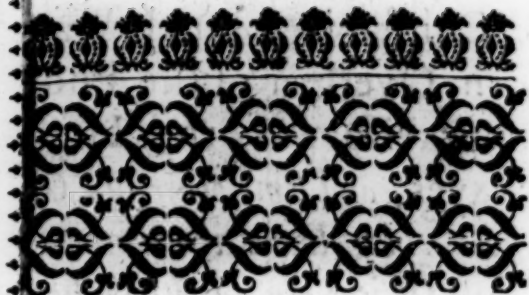
OF

Confidential, I am a member
of the Staff, Senior
Member of the Staff, Senior
Member of the Staff, Senior
Member of the Staff, Senior
Member of the Staff, Senior



15. OCT. 1954

104,729



To all his Loving
Country-men.



Y Deer Friends,
whose welfare
as I much de-
fire, so shall I,
as I may, en-
deavour. And having considered
within my self, how commonly
the most of you are necessarily
called to take upon you the Offices

The Epistle.

of Constable, Church-Warden, Overseer of the Poor, Supravisor of the High-ways, and some other like Offices, how large the extent of these Offices are, and how little knowledge and skill the most of you have therein ; whence it commeth to pass, that in execution of them, sometimes on the right hand you exceed your Authority, and fall into the hands of the merciless Malefactor ; and sometime (and more commonly) on the left hand, you fall short of your Authority, (for he that goeth in the dark knoweth not where he goeth) and doe not so much as you may, which proves a discouragement

The Epistle.

ment to the Officer, and encouragement to the Offendor, and hindrance of Justice. For the Cure hereof I did heretofore in one Booke give you a draught of all these lesser Country Offices, and therewith also an Epitome of some of the most common and usefull Statutes referring thereunto. This Booke I have now again revised, corrected, and by many alterations and additions fitted to our present time, and so I deliver it into your hands, as a Looking-glasse for you. And oh that I could now perswade you all to buy it and read it, to know what you may, and what you are to doe.

And

The Epistle.

And when you know it, in the
name of God doe it, and fear
not : for in so doing, you shall
doe God much service, and your
Country much good. And this
that you may all doe, shall be al-
wayes the prayer of

your Loving

Country-man,


W. S.

CHAP.



CHAP. I.

Of Offices and Officers in general.



AN Office is that Function, *Office and Officer, What.*
by virtue whereof a man hath some employment in the affaires of another. And an Officer is he that is so imployed.

There are divers kinds *The kinds of*
and distinctions of Officers.

and Offices in this Nation: we have had Officers and Offices Spirituall, or Ecclesiastical, such as were conversant about Ecclesiastical matters, as Ordinances, and such like, which are gone; and Ministers, Church-wardens, and the like, which doe yet continue.

SECT. I.

OF Civil, such as were conversant about Civil matters. The Civil Officers and
A Offices

CHAP. I.

Offices and Officers in generall.

Offices are again, some of them judicial; that is, such as are to administer Justice upon the Bench, and in the highest place, and have Judicial voyces in some of the Courts of Justice, as the Lords Commissioners of the great Seale, Judges in the two Benches, Barons in the Exchequer, Justices of the Peace in their Sessions, Stewards in Leets, and divers others. And others of them are ministerial only, that is such as do attend upon the Judicial Officers, and serve, either to prepare and make ready matters for the Judicial Officers to determin; so all the ministerial Officers in and about all the Courts of Justice: or else they serve to execute what the Judges have before determined; such were Constables, Keepers of Prisons, and divers others. And some again are partly Judicial, and partly ministerial, who have in some things a Judicial power, and act as Judges; and in other things, only a ministerial power, and can act but as Ministers, so are Sheriffs, and other Officers in divers particular acts of their office. And some Officers and Offices are, and serve for all the Nation; and some are, and serve for one County onely, and be called County officers; So Sheriffs, Coroners, Treasurers of the County stock, and others: And some serve for one Hundred only, and may be called Hundred Officers; and some are and serve for one Parish onely, as the Parish Constable, Church-Wardens, Overseers of the Poor, Surveyors of the high-Wayes, the Register, Parish-Clerk, Hayward, and the like: And some for one place or house onely, as the

Masse

Offices and Officers in generall.

SECT. 2.

Master of the house of Correction for that house, the Keeper of a Prison for that Prison only, and so of others : Some are for the publique administration of Justice, as Sheriffs, Constables, and such like Officers. And some are, and serve only for, and to the private interest of some men. As the Office of Parkers, Bayliffs, and such like. As to Officers and Offices, that concern the publique administration of Justice, these things are to be known as to their qualification.

1. They must be fit for their Office, that are chosen into it.

SECT. 2.

And therefore none that are by law privileged and exempted, are to be chosen, as the Officers, whose personall attendance is necessary in any of the Courts at *Westminster*, or in the Court of *White-hall*, may be chosen to an Office in the County, wherein his personal attendance is necessary, as Constable, Churchwarden, or the like. Attornies therefore of the Courts at *Westminster*, the ordinary servants of the Lord Protector in his house, are exempted ; so are Ministers ; also Physicians and Surgeons in *London* are exempted, and some others.

2. They must be fit in body, and minde, to do their work, and duty of the Office, or else in some cases they are to be removed, and others put in their place.

3. The Lord Protector, as it seems, may,
A 2 by

CHAP. I.

Offices and Officers in general.

by his Letters Patents, exempt any man from serving any of these Offices. And as to their comming into their Offices,

1. They must be duly and orderly chosen, according to the Law in that case Provided, otherwise all that they doe in the execution of their Offices, will be illegall, and they may be sued for it. And therefore if a Constable, by consent of Neighbours only, shall be chosen and sworn in a Court Baron only, and not in a Leet or by Justices of Peace, and he shall arrest, or doe any thing as Constable; he may be sued as any other man that shall take upon him so to doe. So if Church-wardens, Overseers of the Poore, shall be chosen at any other time, or in any other manner, than is by the Statutes and Ordinances Provided; or being duly chosen, shall not be confirmed by the Justices of the Peace, according to the Lawes in that case Provided; all that he doth is unlawfull, and he may be sued for it.

2. They must come freely to such Offices; for if they give, or promise to give any reward or fee for them, they are disabled to execute or exercise the same Office. *Stat. 5 and 6 Ed. 6. 16.*

SECT. 3.

3. **T**hey must attend their charge and Offices, & if they be negligent therein, sometimes they may be punished by speciall Penalty, as the Lawes appoint. And in some cases, if any man have any special Prejudice by

by their neglect, he may perhaps have a speciall Action of the Case against him for this neglect.

4. And as to their demeanor in their Offices;

1. They must in the execution of their Offices, pursue the Order prescribed by the Law in every particular; otherwise they may be liable to Actions for what they doe, as another man may be: And therefore if Overseers of the Poor shall make a Rate upon one man that doth owe another poor man money, as much as the debt, and give it to the poor man for his debt, or the like, he may be sued for this, when he doth distrain for the money Rated. And if any such Officers shall, by colour of their Offices, and by conspiracy together, or with others, oppress any man, or charge him otherwise than the Law doth authorize them, the Party grieved may have an Action of the Case against him for it. But if any Rate made to the right, and they over-rate, the Party grieved cannot sue them, nor have other remedy, but by appeal to the Justices or the Sessions, as the Statute and Ordinance doth appoint.

SECT. 4.

2. **T**Hese Officers cannot make a Deputy to execute their Offices, but another man may assist them, and doe some of the work under them, but they must answer for them; nor can such Servant or Deputy take any mans Person or Goods as Officers, but as assistant to the proper Officer, and by

his command; therefore let such Deputies take heed how they meddle herein.

3. And they must be content with the Fees appointed them by Law for any thing they doe in their Offices; For if any Officer, by colour of his Office, shall require, or take a Fee where none is allowed; or take more than the Fee allowed, where any fee is allowed; this is extortion, and punishable by fine and imprisonment. And yet if any man shall *gratis* give an Officer any thing, for the doing of any part of his Office; this is no extortion, nor can he be punished for it.

SECT. 5.

BUt as to this point of the Officers execution of his Office, and all the cases of Law that referre thereunto, these things are further to be known.

Arrest.

1. That every Officer, that doth by virtue of his office arrest any mans person, or take any mans goods, he must be sure to look to all these things.

2. That he hath a good authority so to doe, either by a good warrant from some superior Officer at the time of the act done, for a warrant after gotten will not doe; or *ex Officio*, that is, by his own authority, as Officer or otherwise his act will be unlawfull, and be liable to an Action for the doing of it.

3. That he doe arrest or take the goods of the right party, and not of another man by mistake, for if he doe he will be liable to an Action

Offices and Officers in generall.

SECT. 5.

Action for it. And herein he is to know that though he be led into the mistake by the Prosecutor, Plaintiff, or party arrested himself, or a third man, this will not excuse him. But if there be two of one name and there be no more of distinction, and the Procelle be served upon the wrong, and not the man intended, the officer is excusable: And yet if the Officer arrest the party intended, but he is named by another name in the Warrant, this is actionable.

4. He must do it at a seasonable time. And for this, these things are to be known. 1. That an arrest of a man for Felony, or the Peace, or good Behaviour, or otherwise, in case of the Lord Protector, may be in the night as well as in the day. 2. No Officer may execute any Writ, Order, or Warrant, on the Lords day, or any day of Humiliation, or Thanksgiving (but in case of Treason, Felony, breach of Peace, and Profaning of the day.) 3. If an Officer have a Warrant to arrest, and bring a man to the next Sessions, he cannot arrest him after the Sessions; and if he doe, he may be sued for it. 4. In case of distresse of goods, it is safe for the Officer to doe it by day. 5. If he doe it out of time, he may be sued for it.

5. He must doe it in the right place, for this he must know.

SECT. 6.

1. **T**hat he cannot, regularly, take a man or his goods without the place or Parish where he is Officer; And yet perhaps if a man be coming to take his goods, and drive them out of the place, or Parish, he may follow them and take them. Or if a man be arrested by the Officer, and escape into another Parish, there, upon a fresh suit, he may follow him and take him: And yet let the Officer be well advised herein; for we cannot assure him, that the Law will excuse him in these cases.

2. No Officer may arrest the person of a Minister going to, or returning from his Church, in an ordinary course, about the service of God, much lesse, when and whiles he is exercised about divine things.

3. And yet in this case the arrest is deemed to be good, and no Action will lie against the Officer: but they may be Punished by the Justices for it.

SECT. 7.

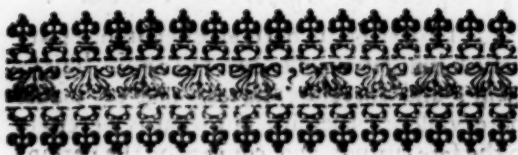
4. **T**He arrest of any other man whiles he is at Church, is punishable by Justices of Peace; yet the arrest is good, not actionable. But an arrest of a man going to, or coming from Church, on a week day, is very lawfull.

5. That

5. That after he hath arrested him, or attached his goods, he doe not abuse him or them; and therefore he can doe or use no more violence therein, but what is necessary to the safe custody and convey of the person, and his goods; and if he use more, he will be liable to action: So also, if he keep the person or Goods longer than the Commitment, and when the Prisoner shall be discharged, upon any preence whatsoever. So also when he keepeth the person arrested, longer than he needeth, from the Justice or the Gaole, this is actionable.

6. If a Warrant from a Justice be to three or more ioyntly and severally, that they shall arrest or levy goods, they may all doe it, or any one of them may doe it; but it will not be safe for any two of them alone to doe it.

7. If an Officer doe any way misdemean himselfe, and doe otherwise then as before, in any of these things, if it be with the agreement and consent of the party arrested, or whole goods are taken, this will excuse and take away the action. Now having said somewhat of Officers and Offices in generall, We shall say something to some of these Officers and Offices in Particular; and first of County Officers, and then of Parish Officers and then of Officers of some special places.



CHAP. II.

Of the Treasurers of the County Stock, for reliefe of poor maimed Soldiers and Mariners, and the Widowes and Orphans of such as died in the service of the Parliament, and their Office.



He Treasurers of the Countrey Stock for the relief of poor maimed Souldiers & Mariners, are certain Officers yearly appointed by the Justices of Peace, to have the charge of the receipt and disbursement of the money taxed and levied

ed upon the whole County yearly, for the relief of poore maimed Soldiers and Mariners: For the Justices of the peace are yearly, at their Quarter Sessions, about Easter, to choose or appoint one or two Persons (according to their discretion) of the County, for the taking and distributing of the moneys of the County, collected for the relief of the poore maimed Soldiers and Mariners: And the men so appointed (by the words of the Statute) must be such men as, at the last Taxation before for the subsidy, were valued at ten pounds in lands yeerely, or fifteen Pound in goods (but if they be sufficient men, this it seems is not stood upon.) And these are to continue in their Office one yeare, and no longer, and then others are to be chosen in their room, 43 *Elix.* 3.

The Office and duty of these Officers doth *Their Office*
consist in these things. *and Duty.*

I They are to receive of the High-Constables of the Hundreds quarterly, the summes of money rated and taxed by the Justices of the Peace upon every Parish, for the relief of sick, hurt, and maimed Soldiers and Mariners. And if in case there be any defaults by the Petty-Constables or High-Constables, in the levying of the summes, or in the payment of them over, so as thereby they make any forfeiture, these Officers (and as it seems) without any Warrant from the Justices of Peace, may levie the same forfeitures by sale of the offenders Goods, rendring to him the overplus for the Parishioners: And in their default the petty-Constables and Church-Wardens

wardens are to set the Justices Rate : And this Rate if men pay not, the Church-wardens and petit-Constables may levy it by distress and sale of their Goods : And if neither the Parishioners, nor Constables and Church-wardens doe set the Rate, then any Justice of Peace in or neer the place, may doe it.

2. Every Souldier or Mariner, impotent, sick, and disabled by the Publick service having a Certificate to any of these Officers, under the Hand and Seal of the General of the Camp, or Governor of the Town where he served, or of the Captain of the Band under whom he served, or his Lieutenant ; or in the absence of the said General or Governour, from his Marshall or Deputy, or from any Admirall ; or in his absence, from any other Generall of the Ships at the Seas wherein the said Souldiers or Mariners did serve, setting down the particulars of their Hurts and Services ; the Certificate being also allowed by the generall Muster Master for the time being, in the Realm, or Receiver Generall of the Muster Rolls, the Treasurer and Controller of the Navie, this Souldier or Mariner may repair to any one of these Officers of that County, out of which he was prest ; or if he were not prest, to this Officer of that County where he was born, or last inhabited by the space of three yeers at his election. And if he be not able to goe thither, he may repair to any one of these Officers of the County where he doth land. And if any such Souldier or Mariner shall

shall thus make to any of these Officers, it is the duty of this Officer, to give such a portion of relief to him at his present necessity, as he shall think fit; having respect to his need, and the commendation of his service; and this to sustain him untill the next Quarter Sessions, and then the Justices of Peace, by a kinde of Instrument, may grant him a Pension, to be paid by this Officer, so long as the Statute doth continue, if the party so long live, and it be not duly revoked: And this must be alwaies paid by succeeding Treasurers quarterly. But the same present summe so given, or yearly Pension so granted, must not exceed ten pound in gross, or *per annum*, to a common Soldier, nor the summe of fifteen pound to any that hath born Office under the degree of Lieutenant, nor the summe of twenty pound to any that hath been a Lieutenant. And these Pensions, the Justices at their Quarter Sessions, may, upon causes, alter at their pleasures. And these Mariners and Soldiers, when they Land, in the way of their travel, before they can get the confirmation of their Certificate, must have competent allowance from the Trealurer of every County, as they pass from the place of their landing.

3. They are to keep a book and therein to Register all the Certificates they do receive and allow, and all their receipts and disbursements. And if any of them doe refuse any Certificate, he must set down the reasons of this refusall under it, or on the back-side of it.

4. They are, at the end of their yeare, to give

give up a just account to the succeeding Treasurers, of all their receipts and disbursements, within the time of their Office; and then also if they have any money in their hands, they are to deliver up the same to the succeeding Treasurers: And this they must doe within ten dayes after Easter Sessions. And if any such Officer so chosen, shall refuse to execute his office, he may be fined for it by the Justices of the Peace: And if any such Officer shall wilfully refuse to give relief to a Soldier or Mariner, as aforesaid, the Justices of the Peace may fine him for the same, according to their discretion. And if any such Officer, his Executors or Administrators, shall not give up his account within the time aforesaid, or shall be otherwise negligent in the execution of his Office, the Justices of the Peace, at the Sessions, may assesse such fine upon him, his Executors or administrators, as they think fit, so it be not under five pounds. And all the fines and forfeitures happening for the breach of this Statute, must be employed by these Officers to the uses aforesaid. And if any of the County Stock, shall be left in their hands, it must be disposed to the use of the Poor, in such sort as the Justices of Peace shall appoint. *Stat. 43 Eliz. ch. 3.*

5. These Officers now by the Ordinance of May, one thousand six hundred fourty seven, are also to receive the money rated upon the County by the Justices of the Peace, at their Sessions, for the relief of the maimed Souldiers and Mariners, and the Widowes and Orphans

phans of such as have died in the service of the Parliament during the late Warres; And this they are to pay out thus.

1. To any such maimed Souldiers and Mariners, as by Warrant under the hand of two Justices of Peace they shall be appointed, untill the next Quarter-Sessions.

2. And then, as by the Pension, there it shall be settled.

3. To the Widows and Orphans so much as two Justices of Peace shall set down.

4. In Cases where the High Constables of Hundreds, or petty Constables of Parishes, fail of their duty herein, and they are for this neglect to be fined by the Justices. For which see *chap. 8. sect. 2. chap. 10. numb. 12. chap. 7. sect. 8.* It will be the duty of these Officers to see those inferior Officers indicted for it, that so they may be fined for it; for without indictment they cannot be fined, *Ordin. 10. August. 1647. and 20. of May 1647. Stat. 43 Eliz. ch. 3.*

CHAP. III.



CHAP. III.

Of the Treasurers of the County Stock, for relief of the Prisoners in the *Kings Bench* and *Mar- shalsey*.

*what they are,
and how they
are chosen.*



He Treasurers of the Coun-
ty Stock, for the relief
of Prisoners in the *Kings
Bench* and *Marshalsey*,
and for the relief of Ho-
spitals and Alms-houses
within the same County,
are certain Officers yeer-

ly appointed by the Justices of Peace, to have
the charge of the Receipt and Disbursements
of the money taxed and levied upon the whole
County yeerly, for the reliefe of the Prisoners
in the *Kings Bench* and *Marshalsey*; and for
the relief of Hospitals & Almes-houses within
the same County; for the Justices of Peace,
are yeerly, at their Quarter-Sessions, about
Easter, to choose and appoint two persons of
the

the County, Officers for this purpose; and the men so appointed [by the words of the Statute] must be such men, as at the Tax of the Subsidy last before were taxed at five pounds Lands, or ten pounds Goods at the least, or neer of that value : And these are to continue in their Office but one year, and then others are to be chosen. The Office and Duty of these Officers doth consist in these things.

1. They are to receive of the high-Con-*Their Office*
stables of the Hundreds quarterly, the sums *and Duty.*
of money rated and taxed by the Justices of the Peace, upon every Parish for the relief of the poor prisoners in the *Kings-Bench* and *Marshalsey*, and for the relief of the Poor within the Hospitals and Alms-Houses within the County : And if in case there be any default by the petty Constables, or high-Constables, or by the Church-wardens in the rating, levying, or payment of these summes, so as thereby they make any forfeitures : These Officers (and as it seems, without any Warrant from the Justice of Peace) are to levy the same by sale of the Offenders Goods, rendring to the party offending the overplus, if there be any, for the Parishioners ; and in their default the petty-Constables and Church-Wardens, are to distribute the Rate of the Justices of the Peace. And this Rate, if neither the Parishioners, nor Constables and Church-Wardens doe make, any Justice of Peace in or neer the place may make it ; and being made, the Constables and Church-Wardens may levy it by distresse and sale of Goods : And for lack

of distresse, the Justice may send the party to Prison, there to abide till it be paid, without Bail or Mainprize.

2. This money, so by them received, they must pay over (and, as it seems in convenient time after the receipt thereof) to the Lord Chief Justice of *England*, and Knight Marshall for the time being, equally to be divided to the uses aforesaid, taking their acquittance for the same; or in default of the said Chief Justice, to the next ancientest Justice of the Upper-Bench.

3. They are to pay yearly, by a quarterly payment, such a summe of money as shall be set down by the Justices of Peace, at their Quarter-Sessions, unto the Masters and Governors of the Houses of Correction; The which if they doe refuse or neglect to doe, the same Masters or Governors (without any other Authority) may levy the same of the Goods of the same Treasurers, by sale of their Goods, rendring to them the overplus.

4. The surplusage of the money, by them received, they must distribute and bestow for the relief of the poor Hospitals of the same County, and for the relief of those that shall sustain losses by Fire, Water, the Sea, or other Casualties, according to the discretion of the Justices of the Peace of the County.

5. They are, at the end of their year, at Easter-Sessions, to give an account to the succeeding Treasurers of all their Receipts and Disbursments in the time of their Of-

fice : And then also if they have any money in their hands, they are to deliver up the same to the succeeding Treasurers. And if any Treasurer so elected, as before, shall wilfully refuse to take upon him the same Office of Treasurership, or to distribute and give relief, or to account according to that Order the Justices shall set down, the Justices may fine him for the same, at their Sessions, according to their discretion, so it be not under three pound : And all the Fines and Forfeitures for the breach of any Branch of the Statute 43 *Eliz. c. 2.* must be employed to the uses last aforesaid, as the Justices shall appoint.

6. In Cases where the Constables, and Church-wardens of Parishes, or Constables of Hundreds fail of their duty herein, and they for this neglect are to be fined by the Justices (for which see *chap. 8. sect. 2. chap. 10. numb. 12. chap. 7. sect. 8.* It will be the duty of those Officers, to see those inferior Officers indicted for it, that so they may be fined for it ; for without indictment, they cannot be fined, *Stat. 43 Eliz. 7 Jac. 4.*



CHAP. IV.

Of the *Collector* of the money for the relief of the Prisoners in the Common-Gaol, and his Office.



He Collector of the money for the relief of the Prisoners in the common-Gaol, is an Officer appointed by the Justices of the Peace, to have the charge of the receipt and disbursment of the money taxed and leyyed upon the whole County, for the relief of the Prisoners in the Common-Gaol. For the Justices of the Peace, at their Quarter-Sessions, are to choole and appoint some sufficient person, living neer to the Common-Gaol of the County, as a Collector to receive and distribute the money assessed by them upon the County, for the relief of the prisoners in the Common-

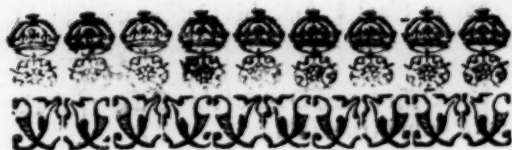
Common-Gaol : And this Officer may be in his Office for longer time than one year,
14 *Elix. 5.*

The Office and Dury of this Officer, doth consist only in these things.

1. That he be ready at every Quarter-Sessions, to receive from the High-Constables of the Hundreds, the monies rated by the Justices of the Peace on every Parish, for the relief of the Prisoners in the common Gaol of the County. *His Office and Duty.*

2. That he doe weekly pay and distribute the same to the same Prisoners in such sort as the Justices of Peace shall appoint. And if he offend in either of these things, he shall forfeit for the same offence five pounds.

3. In cases where the Church-wardens doe not their duty, or the Constables of Hundreds doe not their duty herein, and they may be fined by the Justices for their neglect herein, (for which see *chap. 8. sect. 2. and chap. 10. numb. 12.*) it will be the duty of these Collectors to see them indicted before the Justices, that so they may be fined; for without indictment they cannot be fined, *Stat. 14 Elix. 5.*



CHAP. V.

Of the Governour of the House of Correction for the County, and his Office.

*what he is, and
how he is cho-
sen.*



He Governour or Master of the House of Correction, is an Officer appointed by the Justices of Peace to have Oversight and government of the House of Correction, and of persons committed to the same. For such Houses are to be, and are provided and maintained with Mills, Turns, Cards, and such like necessary implements in every County, for the keeping, correcting, and setting to work of Rogues, Vagabonds, sturdy Beggars, and other idle and disorderly persons. And the Justices of the Peace, or the greater part of them, at the Quarter-Sessions, are to choose and appoint one or more sufficient and honest persons to be Governours or Masters of the said House, and to take sufficient security from the said Governors for the continuance

ance, and performance of the said service; and to set down what allowance they shall have yearly for their pains (which they may charge upon the County) and for the relief of such as shall happen to be weak and sick in their custody; and for the Stock to set on work such persons as shall be committed thither; and to set down other Orders touching the same, according to their discretion: And this money so allowed, they shall have according to the appointment of the Justices of Peace as aforesaid, to be paid quarterly before hand, by the Treasurer of the County, for the relief of the Prisoners in the *Kings-Bench* and *Marshalsey*. And if the Treasurer refuse or neglect to pay it thus, the Master of the House of Correction may levy the same, or so much thereof as shall be unpaid upon the Treasurers account, by distresse and sale of his Goods, sending unto him the overplus of the money, 39 *Elix* 4. 7 *fac* 4. The Office and Duty of this Officer, is in these things.

First, To look well to the same House and the back-side thereof, and all the Implements and Goods he doth finde there; He is also to look to all the persons he doth finde there, or that shall be afterwards committed to him. *His Office and Duty.*

Secondly, To receive such Rogues, Vagabonds, idle, or disorderly persons, as by any of the Justices of Peace shall be sent thither.

Thirdly, To keep safely all such as are committed to him, and not to suffer them to wander about the Countrey, or to escape away without order of the Justices.

Fourthly, To see and take care, that amongst

mongst the persons committed to his charge, if there be any sick, or otherwise impotent, &c. that have need of relief, That he doe relieve them according to their necessity.

Fifthly, To see and take care, as for the rest that are able to work, that he doe from time to time, as they shall remain there, set them to work and labour; for during that time they must in no sort be chargeable to the Country for any allowance, either at their coming in or going forth, or abode there; for they are to have such and so much allowance only, as they shall deserve by their own labour and work.

Sixthly, To punish them (as he seeth cause) with putting on Fetters or Givies upon them, and by a moderate whipping of them.

Seventhly and lastly, At every Quarter-Sessions to give an account of all such persons as have been committed to his custody. And if they shall offend in any of these particulars, or any other incident to the duty of their Office, the Justices of the Peace may impose such Fines and Penalties upon them for the same, as they shall think fit. And these Fines must be paid unto, and accounted for, by the Treasurer of the County for the *Kings-Bench* and *Marshalsey*.



CHAP. VI.

Of the Keeper of the Gaole of the County, and his Office.



He Gaoler or Keeper of
a Prison is one that
hath the custody of the
place & Prison where-
in Prisoners are kept ;
and of these, there are
as many as there be
Gaoles and Prisons.

Gaoler, what.

As to the Power and Office of these Offi-
cers, these things are to be known.

*His power and
Office.*

1. They are to receive such Prisoners as are
duly sent or offered to them, and all that are
sent by a Justice of Peace Warrant, they must
receive. If any Officer arrest a man upon su-
spicion of Fellony, and carry him to the Gaol-
er, he must receive him without a Justice
Warrant : And if any man that is no Officer,
take a Fellon doing the Fellony, and bring
him to the Gaoler, it seems also that in this
case he is to receive him also.

2. His duty and charge is, to look well to
the

the Prisoners that are in his custody ; for if he suffer any of them to escape, he will be punished for it : If they be Prisoners for debt, and he let them escape voluntarily, or negligently, he must pay to the Creditor his debt. If they be in for Felony, and the Keeper suffer them wilfully to escape, he is a Fellow ; if negligently, he is finable : and so he is for the escapes of lesser Offenders.

3. It hath been held by some Judges therefore, that a Gaoler may justify the putting of Bolts upon the Legs of any Prisoners committed to him.

4. Keepers they are to see, that their Prisoners have necessary provision.

5. For this the Law doth give an Action of Debt to the Gaoler, against his Prisoner ; nor can the Prisoner, in this Action, be suffered to wage his Law.

6. They are to take care, that such Prisoners as are in their custody, in execution for Debt, be kept in strait custody, and have not too much liberty ; for by this means they will be forced the sooner to pay their debts.

7. They may not compell, or procure their Prisoners to become approvers, that is, accusers of others, for this is Felony.

8. If a Prisoner of Debt get away from a Gaoler against his will, he may follow him and take him again, and bring him to, and put him in the Gaol again. And so he may any Prisoner that is in for any Crime or Offence. But if a Keeper doe voluntarily deliver a Prisoner of Debt, there he cannot retake him and put him in Prison again, for he is discharged of his

Of the County.

his imprisonment, and the Gaoler must satisfy
the Debr. Co. 9. 87. Dier 249. Stat. 1 Ed. 3.
Stat. 1. 7. 5 Ed. 3. 14 Ed. 3. Stat. 1. 10. Br.
Faux Impr. 24. 27.



CHAP. VII.

Of Constables, Tythingmen, and the like Officers, and their Office.

SECT. I.

What they are, and how many sorts of them there are.



Omit to shew the Etymo- Statute of Win-
logie and diverse accep- chester, 1. Lāb.
tance of the word Constable, of the duty of
the Antiquity and Orig- Constables.
nall of the Office of the Finches Law
Constable we are now to 306. Sir Tho.
treat of, and the divers Smith de Re-
sindes of Officers of this name in the Com- pub. l. 2. cap. 25.
mon-wealth, and to take up so much only as 12 H. 7. 18.
may serve to our present purpose, The Con-
stables

stables (whose Offices we intend to speak of) are said to be Officers of the Common-wealth, appointed for the maintenance of the Peace thereof, and to be attendant to Court Leets, Justices of Peace and Coroners, for the execution of their Warrants within their Precinct and Liberty : And Master *Lamberd* saith, the name of a *Constable* in a Hundred or Franchise doth mean, that he is an Officer that did support the Kings Majesty in the maintenance of his Peace, within the Precinct of his Hundred or Franchise : And of these *Constables*, there are now said to be two sorts. The first sort are the *High-Constables*, which are for the whole Hundred, Lathe, Rape, or Wapentake, The which doe comprehend many Parishes, Tythings and Villages ; and therefore these Officers, in respect of Place, have a more large command than *Petty-Constables* have. These Officers were ordained by the Statute of *Winchester*, which doth appoint (amongst other things) That for the better keeping of the Peace, two *Constables* in every Hundred or Franchise shall make the view of Armour ; and they are called *High-Constables*, in comparison of the *Constables* or *Petty-Constables*, that be in the Towns or Parishes within their Hundreds and Franchises, whose duty is likewise to maintain the Peace, within the severall limits of their Towns or Parishes : And of these *High-Constables* there were to be, and were anciently, two in every Hundred, but at this day there is but one in many Hundreds. The other sort of *Constables*, are the *Petty-Constables*, or the *Under-Constables*, who are

are only for some part, as for a Town, Parish, Village, Tything, or Hamlet within the Hundred (for every Hundred hath his *high-Constable*, and every severall Tything within the Hundred hath his *petty-Constable*, *Tything-man*, or the like within it :) so that the Command of the *petty-Constable*, is only in one part of the Precinct of the *high-Constable*; but otherwise for his authority, by the ancient Common-Lawes, his Office (as farre as his Precinct doth extend) is the same with the Office of the *high-Constable* over the whole Hundred. The *Tything-man*, *Borsholder*, *Borrow-Head* or *Head-Borrow*, *Third-Borrow*, and *chief-Pledge*, or by whatsoever names they be called in any Towns, Parishes, Tythings, Burrows, Hamlets, or other places; and their Offices are in effect, in most places, but one and the same: For in some Countries this Officer is called by one name, and in other Counties by another name; as in *Kent* he is called *Borsholder*; in *Warwick-shire* *Third-Borrow*, and in other places he is called *Constable*, and in some places he is called *Tything-man*; for he that is called and sworn the *Tything-man* of any place, is (in effect) the *Constable* of the place: and therefore in such places, for the most part, there is no other Officer called or sworn by the name of a *Constable*; for, as *petty-Constables* about the beginning of the reign of *Edward the third*, were devised in Towns and Parishes for the aid of the *Constables* of the Hundred, so afterward *Borsholders*, and such like, were used as *petty-Constables* within their own Tythings and Burrows. But if it be so (as it is in some few

few places) that there is one *constable* for the Common-wealth, and there is also one or more *Tything-men*, and the *Constable* doth execute all the Office, and the *Tything-men* are but as attendants on him, and seem to have but little power; or it be as in some places, the *Tything-man* is to doe service to the Lord of the Manor, rather than to the Common-wealth and he is a customary *Tything-man*, chosen at the Lords Court. Or if it be so that there are two or more *Tything-men*, and one of them is for the Common-wealth, to execute the Office of *Constable*, and is alwayes chosen at the Leet, and this *Tything-man*, time out of minde, hath been used to doe nothing about the Office of the *Constable*, but to doe other things; in these Cases the custome of the place may and must be continued, and such *Tything-men* shall not be compelled to doe more than by custome they have used to doe: Howbeit otherwise, and in all other places, all these Officers are comprehended within this word *Constable*, and all these Offices are contained within this Office.

SECT. 2.

Of the choyce and swearing of High-Constables, and Petit-Constables.

THe *High-Constables* are and may be chosen and made, either by the Justices of the Peace, at their Quarter-Sessions, or at the

the Leet, and there, either by the Steward of the Leet himself, or by the presentment of the grand Inquest, in the Leet, as the course and custome of the place is : And these were heretofore chosen and sworn in the Sheriffs turn. The *Petty-Constables* are and may most properly be chosen by the Steward of the Leet himself, or the Presentment of the Inquest in the Leet, But these also are chosen by the Justices of the Peace at their Quarter Sessions. And all these Officers are and may be chosen for one or two years, according to the custome of the place. And when they are chosen at the Quarter-Sessions, or at the Leet, they doe usually take their Oathes there where they are chosen ; or they may, and sometimes they doe take their Oathes before one Justice of Peace, at another time and place. A *Petty-Constable* also in some speciall Case may be made and appointed by one Justice of Peace, and that out of Sessions, as in case where one that is chosen *Constable* doth refuse the Office, or one that is made *Constable* is removed out of his Office, or is dead ; in these cases, in respect of the necessity, and for a present supply, one Justice of Peace alone may Elect and Swear a new Officer, and then especially when the Quarter-Sessions, and the Leet are far off, and not to be kept in a great time after: And as touching this matter these things are to be known.

1. Where the custome of the place is, for the Jury in the Leet to choose these Officers, there they may and must be chosen still ; for this is a good way and custome, and the best way of choosing these Officers ; but where the

Dalt. Just. of P. 37. 38.
Resol. of the Judges.
Co. 8. 41, 42.
Tit. off. Just. of P. 201.
Lamb. in the Const. duty 10.
11. Dalt. Just. P. 322, 323.
18 H. 6. 13.
21 E. 3. 2. 12 H. 7. 2 H. 4. 15.
custome Marb.

cap. 10. Fitz.
Leet in toto.
Marb. cap. 10.

custome is otherwise, there it may be otherwise.

2. Which way soever they be chosen, there must be great care had, that those that are chosen be fit persons to execute the Office; and therein these things must be observed.

1. The person chosen, must be a Lay, and not a Clergy-person, for all Clergy-men are exempt from this service, as they are from attendance at the Leet; and therefore if any such person shall be chosen to this Office, he may get himself discharged by a Writ: whereof see afterwards.

2. The party chosen, as he must be a Lay-person; so he must be a Lay-man; not a Lay-woman, and therefore a widow or Maid, albeit she keep house of her self, and dwell in a house whose owner hath been used to serve in this Office, is not to be chosen to this Office, no more than she is to do suit to the Leet.

3. The party chosen, as he must be a man; so he must be *idoneus homo*, i. e. a fit man; and that first for his Knowledge, that he doth in some good measure understand what he doth and ought to doe: And therefore a man that is *non compos mentis*, as an Idiot or mad-man, an Infant, or the like, cannot be a fit man.

2. He must be fit for his honesty, that he may be likely to execute his Office truly without ill affection or partiality: And therefore it seems a scandalous liver, a malicious and contentious man, cannot be a fit man.

3. He must be fit for his ability of Body and Estate; And therefore an old, weak, sick, or otherwise impotent man, or a poor needy man that lives only by his labour, cannot be a fit

the man. It was therefore by speciall direction from the Kings in *An. Dom. 1530.* given in charge, that the Constables in all Parishes should be chosen of the able sort of Parishioners, and that the Office should not be put upon the poorer sort, the which if it were well observed, would no doubt much further the execution of Justice through the Nation. And if because the common course is every where to put these Offices upon the meaner sort of men, the more able sort doe think themselves thereby exempted, they are therein much deceived; for it is not much to be doubted but that all persons that are bound to doe service in the Leet, are bound to serve in these Offices, that are after a sort appendant to the Leet; and therefore if any such person be called and chosen therunto, he must and will be compelled to execute the same: Howbeit it is deemed an unfit and indiscreet part to elect any to these Offices, that in respect of their other Offices, Callings, or Professions, are presumed to have so much other employment that they have not leisure to attend upon this much as is required. And hence it is, that the Justices of Peace, Sheriffs, Lawyers, Attornies, and such like persons, are seldom or never chosen to these Offices: For if any Steward or Jury in a Leet should be so indiscreet as to choose any such men to these Offices, the Justices of Peace upon complaint to them hereof, will no doubt be so discreet as to discharge them again, and elect others in their place; for he cannot be fit for that Office which he hath no leisure to wait and attend

tend upon it. But otherwise it is not only law-
full, but convenient also, that these Officers be
chosen in all places, of the abler sort of men.
And therefore it hath been of late resolved by
the Judges, That if a man had made himself
one of the Kings Servants extraordinary, that
this would not exempt him from the execution
of this Office, but he must have been made
Constable notwithstanding. 4. An Infant un-
der the age of seven yers, may not of
right be compelled to serve in these Offices:
And yet if such a one be chosen and sworn, it
seems he may execute the Office as another
man may doe: And therefore if a young man
of the age of twenty yers, or thereabouts (e-
specially if he be such a one as hath the growth
wisdom, and courage of an elder man, as some-
times it falleth out) be chosen to this Office, he
shall doe well to take it upon him and execute
it. An old man also aged sixty, or thereabouts
(especially if his strength of body and mind
be not much abated) may be compelled to
serve in these Offices. 5. If a man live within
one Hundred or Tything, and have Land only
within another Hundred or Tything, he may
not be chosen to serve in this Office in the
place where his Land is; for if he have no
House upon his Land, it seems neither he nor
his Tenant is bound to serve in these Offices at
all, in respect of the Land: For men are
bound to serve in these Offices in respect of
their Persons and Reliancy, and not in respect
of their Land. But if he have a House upon
his Land, and a Tenant dwelling in it, and he
be a sufficient man and able to serve the office,

may be chosen and made to serve it, but not the Land-lord, for perhaps he may be chosen to this or some other office in the place where he dwells, and a man can doe service with his Tything but in one place at one time. And yet if it be so that a man hath two severall Tythings in two severall precincts, and within severall Leets, and he doe live sometimes at one house, and sometimes at the other, in this case he may perhaps be made an Officer at either of the Leets, within either of the places, if he be there dwelling at the time when the Leet is kept; for a man may doe Tything service at two places, at severall Tythings. But if two Tythings be within one precinct, and one man hath houses in both the Tythings, in this case it seemeth doubtfull, whether albeit he doe live in the one Tything, he may not be compelled to serve in this Office at his house in the other Tything, especially if the Tythings be neer, and he keep no Tenement in his house, fit to undergoe the Office when it shall come to his turn; wherein, as in other such like cases, a due consideration must be had of all circumstances.

By that which hath been said it may appear, then, how unreasonable a thing it is, that the Offices should follow the houses; or that two or three in a Tything, and no more, should alwayes execute the same (as in some places hath been used) and therefore it hath been well and wisely altered by the Order of the Justices in some, if not in all places. *Removing of a Constable.*

If there be a man unfit, for any of the causes

causes aforesaid, chosen and appointed to this Office in a Leet, either by the Stewards nomination, or by the Presentment of the Jury, or by one Justice of Peace only, out of Sessions; such a man may be removed, and discharged again, by order of the Justices of Peace, at their Sessions, and another man more fit may be, by them, then and there elected and sworn in his room that is so removed. But if the man elected and made Constable in a Leet, be a fit man, the Justices of the Peace may not remove him and appoint another: and so it hath been agreed by the Judges. And yet if the Justices of the Peace shall remove such a man chosen in a Leet, that is a fit man, it seems there is no remedy but by complaint to the Lord chief-Justices, or the Judges of the Circuit, &c. If the Constable be chosen by the Jury in a Leet, and the man chosen be unfit, and the Steward of the Leet doth perceive it; in this case it seems the Steward himself may elect and swear another man more fit, and refuse and discharge him that is so chosen by the Jury. And it is held also; That in default of the Leet, otherwise, where there shall be just cause, every Justice of Peace, *ex officio*, may remove the old Constable, and choose and swear a new one; and that for this purpose he may send forth his Warrant to require such Person to come in and take his Oath before such Justice of the Peace. Also there was (as it seems) another way of discharging and removing of the Officer, by a Warrant from the King to the Sheriffe of the County, and to the High Constable

Custom.
Prescription.

Constable of the Hundred, whereof see a prescription in *Daltons Just. of Peace*, fol. 322.

5. No Custom or Prescription to exempt any man, not exempted as before, or to warrant an undue election, contrary to the Rules before laid down, will avail, or shall be allowed to any person or Tything.

6. If a man be chosen to this Office in a Tything, and he refuse to take the charge thereupon him, he may be fined for this contempt in the same Leer. And if he be chosen at the Sessions, or by one Justice of Peace out of the Tythings, and he refuse to take his oath, he may be indicted and fined at the Sessions for contempt. *Numb. 1, Deputy.*

A Constable chosen and sworn, may make such Deputies he will under himself, to execute his Office; for there is no doubt but in case of sickness, and at other times also he may, if he will, execute his Office by Deputy, but the Officer himself must expect to answer for all the mis-doings of his Deputies. And if a man be chosen an Officer, and he desire to have a Deputy, and to have him sworn and allowed, if the Deputy be sufficient, and be sworn and sworn, in this case the Deputy, and not the other, is the Officer, and therefore the Deputy must answer for himself and his doings, and not the other for him. But the making of a Deputy in this case, is rather by custom than by Law, and so hath it been answered by the Judges.

The form of the Oath
of a Constable.

YOU shall swear well and faithfully to serve the Common-wealth in the Office of a Constable. You shall see the publique Peace to be well and duly kept and preserved, to the utmost of your power. You shall arrest all such persons as in your presence shall ride or goe armed offensively, or shall commit or make any Riot, Affray, or other Breach of the publique Peace. You shall doe your best endeavor, upon complaint to you made, to apprehend all Fellons, Barators, and Riotors, or persons riotously assembled. And if any such offenders shall make resistance with force, You shall levy Hue and Cry, and shall pursue them until they be taken. You shall doe your best endeavor that the Watch in your Town be duly kept, and that Hue and Cry be duly pursued according to the Statutes. And that the Statute made for punishing of Rogues, Vagabonds, and Night-walkers, and such other idle and wandering persons coming within your liberties, be duly put in execution. You shall have a watchfull eye to such persons as shall maintain or keep any common house or place where any unlawfull games or playes are or shall be used, as also to such as shall frequent or use such places, or shall exercise or use any unlawfull Games or Playes there or elsewhere, contrary to the Statute. And you shall have a care for the maintenance of Archery according to the Statute. At your Assizes, Sessions, or Leet, you shall present all and every the offences committed or done contrary to the Sta-

cases made and provided for the restraint of the
interdittate haunting and trespasing in Taverns, Inns,
Alehouses, and other Victualling-houses, and for
the repressing of drunkenness and profane swear-
ing. You shall true presentment make of all Blood-
shedding, Affrayes, Out-cries Rescues, and other
offences committed or done against the publick
Peace within your limits. You shall well and due-
ly execute all Precepts and Warrants by you di-
rected from the Justices of the Peace and others
in authority in this County. And you shall well
and due, according to your knowledge, power,
and ability, do, and execute all other things be-
longing to the Office of a Constable, so long as you
shall continue in the said Office.

So help you God.

Or thus more briefly.

YOU shall swear, That you shall well and
duly execute the Office of Constable [or
Tything-man] for the Parish [or Tything] of S.
for this next year [or half a year, as the Case is]
and untill another be sworn in your room, or you
shall be legally discharged thereof.

So help you God.

C.

CHAP.

CHAP. VIII.

Of the Power and Duty of the High-Constable and Petty-Constable in common, and one with another; And of some few things the Petty-Constable, and not the High-Constable, is to doe.



T Hese Officers and their Offices, as they had a far greater Authority than now they have, so have they been of farre greater account than now they be. For by the ancient Common-Laws, before there were any Iustices of Peace made, the Constables of every Village had a kinde of Rule within the same Village, and were to keep the Peace there; and therefore the Constable was called the Ruler of the Village: And it is thought, that at that time the Authority and account of these Officers was much like

to the Authority and account of the Justices of the Peace at this day; and therefore they had then the same Titles of *Conservators of the Peace* given unto them, which is given to the Justices of Peace at this day, *Sed tempora mutantur, & nos mutamur in illis*: For this is vanished now, and there is but little signe of it: for at this day they doe for the most part but execute the Commands of others; & yet somewhat there is remaining, as the footsteps of what formerly they had, the which to set forth is our labour in this place; for the opening whereof we shall observe this method. First, we shall shew what all *Constables*, high and low, *Tything-men*, *Borsholders*, &c. may and must doe, and what is their common and equall Duty and Authority; and then next what the *High-Constable* may and must doe more than the *Petty-Constable*, &c. and wherein these Officers have a distinct and severall duty one from another; and then we shall shew what the *Constables* of some great Towns may doe in some special Cases.

SECT. I.

Certain generall Rules and Cases about these things.

FOR the further clearing and opening of these things, observe these Rules and Cases following.

I. Every of these *Borsholders*, *Tything-men*, Numb. 1. *Borow-Heads*, *Head-Borows*, *Third-borows* and *Lamb* in the *tything-Pledges*, hath two severall Offices at this Duty of *Constable* day. les f. 6.

day the one being his ancient and first Office, and the other his later made Office; his first Office began thus. By the ancient Laws of this Nation (before the coming in of King *William the Conqueror*) it was ordained, for the more sure keeping of the Peace, and for the better repressing of Theeves and Robbers, That all free born men should cast themselves into severall Companies, by ten in each Company; and that every of those ten men of the Company should be surety and pledge for the forth-coming of his fellowes: so that, if any harm were done by any of these ten against the Peace, then the rest of the ten should be amerced, if he of their Company that did the harm should flie and were not forth-coming, to answer to that wherewith he should be charged: and for this cause these Companies be yet in some places of England called *Borers*, of the word *Borbes*, Pledges or Sureties; albeit in the Western parts of this Nation they be commonly named *Tythings*, because they contain the number of ten men, with their Families: and even as ten times ten doe make an hundred; so, because it was then also appointed, that ten of these Companies should at certain times meet together for the matters of greater weight, therefore that generall Assembly or Court was, and yet is, called a *Hundred*. And it was then also ordained, That if any man were of so evill credit that he could not get himself to be received into one of these *Tythings* or *Borers*, then he should be shut up in Prison as a man unworthy to live at liberty amongst men abroad. And whereas every of these

these Tythings or Boroes did use to make choyce of one man amongst themselves, to speak and to doe in the name of them all; he was therefore in some places called the Tything-man, in other places the Borow-Elder, now called Borow-Holder in some places, in other places the Borow-Head, or Head-Borow, and in some other places the Chief-Pledge; which last name doth expound the other three that are next before it. For Head or Elder of the Borowes, and Chief of the Pledges are all one; and in some Shires where every Third-Borow hath a Constable, there the Officers of the other two are called Third-Borows. Moreover in these Tythings or Borowes, sundry good orders were observed, and amongst others, First, That every man of the age of twelve years should be sworn to the King. Then, That no man should be suffered to dwell in any Town or place unless he were also received into some Suretyship and Pledge, as is afore said: And that if any of these Pledges were imprisoned for his offence, then he ought not to be delivered without the assent of the rest of his Pledges. Again, That no man might remove out of one Tything or Borow to dwell in another, without lawfull Warrant in that behalf. Lastly, That every of these Pledges should yearly be presented and brought forth by their Chief-Pledge, at a generall Assembly for that purpose, which at this day is called, *The view of frank Pledge*. And of this ancient Office there is yet some shew in our Leets or Law dayes, and well were it for us, if the very Substance thereof were thoroughly performed at this day. The latter

CHAP. 8.

Constables,

Numb. 2.

Numb. 3.

Numb. 4.

Numb. 5.

Daltons J. P.
28. 296. Fitz,
Just. P. 30.
Lamb. Just. of
Peace, 240.
Numb. 6.

What every man
may doe in the
Constables
Office.

latter Office of these Officers, is in manner all one with the Office of a *petty-Constable*. Secondly, Some things these Officers are to doe in their Office, they are to doe *ex Officio*, and by the duties of their places, without any command from others; and for other, they must doe them by command from others, and without this they need not doe it, nor can they justifie the doing thereof. Thirdly, Some part of their Offices are derived from the ancient Common-Law, and other parts from certain Acts of Parliament newly made, whereby they are further enabled or charged than they were before by the Common-Law. Fourthly, The Office of the *petty-Constable*, and *high-Constable* is one and the same for most things, only the *high-Constable* is over all the Hundred, and the power of the other is only in his *Parish* or *Tything*. Fifthly, That whatsoever the Law doth require of these Officers by the duty of their place, that it doth give them authority to doe; and whatsoever the Law doth give them authority to doe, that, for the most part, the Law doth enjoin them, by the duty of their place, to doe. Sixthly, Whatsoever any other man may doe in those things whereabout the Office of a *Constable* is conversant, the *Constable* may much more doe. And therefore a *Constable* may, without doubt, part Affrayors, or keep them asunder in a Room of his own or of another mans house, for a time, to prevent mischief. And if he see one coming with a weapon drawn, or the like, intending to take part in the Affray, he may lay hands on him and stay him : And he may arrest or imprison one he doth

Arrest.

Tything-men, &c.

SECT. I.

doth know or suspect to have committed a Fel-
lony, or one that is apparantly about to com-
mit a Felony, or one that hath dangerously
wounded another; or Night-walkers that are
dangerously suspicious, or one that keepeth
or useth any Gun, &c. contrary to the Sta-
ture, or the like; for in all these cases any o-
ther private man that is no Officer, may doe
the same and justifie it. Seventhly, That
which shall be said of one of these Officers
must regularly be understood of all the rest,
except it be in the cases wherein the Office of
the *high-Constable* of the *Hundred*, and of the
head *Constable* of a Town are in some few things
singular. So that as the *Constable* of a Parish is
to labour to keep the Peace, suppress Fellons,
execute the Justice of Peace his Warrant, and
the like: So is the *Tything-man*, *Borsholder*, *Bo-
rothead*, *Thirdborow*, and *chief-Pledge* of a Parish
to doe the same; and this Officer, where he
is called by this name within his Precinct,
hath the same authority in all things as the
Constable hath within his Precinct. Eighthly,
All the cases herein set down touching the of-
fice and duty of these Officers must be so un-
derstood as to give them authority, & to charge
them within their own limits and precincts on-
ly, and no farther; for howsoever these Officers
are bound to look to the Peace, to suppress Fel-
lons, execute the Justices warrants, & the like,
yet all this is to be understood within their
own *Hundreds*, *Parishes* and *Tythings* only, with-
in which only they have authority and power;
except it be in some speciall cases, shewed
after; for out of the Compasse of their *Hun-
dreds*,

Numb. 9.

Ayde.

Broo. Ry. 3.

Tressp. 43 L. 3 H.

7. 10 13 H. 7.

10. 38 Ed. 3. 8.

Dal. J. P. 303.

dreds. Tythings and Parishes, they have no more authority than a private man, neither are they more bound there to doe any of the things that doe belong to their office, than any other man is. Ninethly, that in case of pursuit, and apprehension of Fellons, and carrying them to Gaol, in case of suppressing insurrections, allaying of affrayes, keeping of the Peace, execution of the Warrants of Justices of the Peace, and the like, any of these Officers (when need shall be) may require the ayd and assistance of so many of his Neighbours, or others, of all sorts of able men, above fifteen years of age, as he shall think meet, and so also he may doe in case where a man is hurt and dangerously wounded, for the apprehending and arresting of him that gave the wound, and so also he may doe when a Warrant is sent unto him, for the apprehending of a Popish Recusant, by speciall provision of the Statute of 3 Jac. cap. 4. And if any such person being required by any of these Officers, in any such case shall refuse or neglect to aid them, he may be fined and imprisoned for it at the Quarter-Sessions.

Numb. 10.

Breaking of a house.

Coo. 5. 92. Dal.

J. P. 176, 177.

13 Ed. 4. 9.

3 Jac. 4.

Tenthly, these Officers, if they cannot otherwise get in, may justifie the breaking open of any mans house in these Cases following (*viz.*) to search after or arrest any person for Treason or Felony, or suspicion thereof, that is or is thought to be in the House; to take a man that hath dangerously hurt another, and is fled into the house, to appeale an affray that is in the house; to apprehend a Popish Recusant, upon a Warrant to break open the house, and upon

upon the Warrant for the Peace or good Behaviour, by the opinion of *Popham* and *Clerk*, Judges of Assise at *Cambridge*. And so generally in all cases wherein the Keepers of the Liberty are party, or where they have any interest in the business. And yet it seems in case of a Warrant to apprehend an Alehouse keeper for selling without Licence, and to carry him to Bridewell upon the second conviction, it was doubted by the Judges in their *Resol.*

1633. *Seck. xi.* But in all these cases the Officer, before he doth break open the House, must signifie the cause of his coming, and require them to open the dores. Eleventhly, where an Officer hath power to arrest a man, and being coming to doe it, the party doth flye into another County or Hundred; in this case the Officer may presently pursue him whithersoever he shall so flye, & arrest him there, albeit it be in another Hundred or County, or his own Precinct. Twelfthly, If a man commit a Fellony in one County, and be arrested in another County for the same, by the fresh pursuit of the Officer, or some other pursuing him thither: in this case the prisoner must be carried to the Gaol of the County where he is taken, and not to the Gaole of the other County. And if a Constable be coming to arrest Affrayors, & they fly into another County, and he pursue and take them there, in this case he must bring them before a Justice of Peace of the same County where they are taken; where the Officer can doe no more than a private man: But if the flight be only into a priviledged, or other place in the same

Numb. 11.

Fresh pursuit

Pl. 37. Dalt. J.

Peace 23.

Arrest out of the

Officers pre-

dict.

To what Gaol a

Prisoner may be

carried.

Numb. 12.

Daltons J. P.

297, 298.

Numb. 13.

Resisting an Of-
ficer.

Coo. 4. 40. 9. 96.

Broo. Tres. 196.

21 H. 7. 39.

Lamb. J.P. 29.

198. Dalh. J.P.

297.

Murder.

Trespassse.

Good behavi-
our.

Beating.

Stocks.

same County; in this case the Officer may in his fresh pursuit thither take him, and dispose of him as an Officer, and as if he took him within the limits of his own Parish. And if a Constable arrest a man upon a Warrant from a Justice of Peace, and after the arrest, the party (of his own wrong) getteth away and flyeth into another County; in this case the Officer may pursue him and take him there, and bring him back to the same Justice of Peace from whom the Warrant came. Thirtenthly, It is dangerous to oppose or hinder these Officers in the doing and execution of their Office: For to kill any one of these Officers in the doing of his Office, is wilfull murder, and causeth unavoidable death, or to beat or wound any such Officer, in the doing of his Office, is a great Trespassse to be recompenced with great Damages: And otherwise to abuse any such Officer, in the doing of his Office, is a great misdemeanour, that may cause the offender to be bound to the good Behaviour. And if the party that is to be arrested shall make resistance, make an assault upon the Officer, or labour to get away, the Officer may justifie the beating, yea and the wounding of him also, or he may imprison him in the Stocks for the same. But upon a Warrant of a Justice of Peace, for the peace or good behaviour; if the party resist or fly before he be arrested, it is said the Officer cannot justifie the beating of him; yet if the Officer please he may soon arrest him, for if he be a known Officer, and doe but say to the Party: *I arrest you in the name of the Kee-*

Tything-men, &c.

SECT. I.

pers of the Liberty of England, albeit he never lay hands upon him; this is an Arrest in opinion of the Law. And if a Warrant be sent to any Lord Keeper, & of these Officers to arrest one Indicted of the Lord cheif Felony, he may justifie the killing of the Justice & Car. party, if he cannot otherwise take him; or Murder justifi- being taken, if he resist and flie when he is able.
 taken. Fourteenthly, Where any of these Numb. 14. Officers hath arrested a man, and hath power Fitz. Cor. 61. to imprison him, it is held that he may not 288. 328. imprison him in his own house, or in any other place but the common Prison, and the may imprison a Prison also of the same County; for he may man in another place then the except it be in some speciall Case, as where common Prison. the Gaol doth serve for divers Counties, or the like; and yet upon a reasonable request, as Fitz. Barra. because it is night, or because the Officer doth 202. 20 E. 4. 6. want strength enough to carry him to the 10 Ed. 4. 17. Gaol or to the Justice; or because he doth fear 22 Ed. 4. 35. a Rescue will be made upon him, or the like; 3 H. 4. 9. in these Cases the Officer may put the party Kelw. 45. in the Stocks, and keep him there for a rea- 11 Ed. 4. 7. sonable time, viz. untill the morning, if it be Stocks. at night, or untill he can be conveniently provided for strength and ayd to carry him to Prison, or to the Justice of Peace. But some Lamb. J. P. 2. say that an Officer may keep a Prisoner in the cap. 3. Officers own, or in another mans house, for a time convenient, and justifie it; whereof others much doubt: And therefore the safe way is to keep him in the Stocks, or carry Numb. 15. him to Prison. Fifteenthly, If the Prisoner How an Officer put in the Stocks be taken for Felony or su- may use a Pri- mption of Felony; in this case the Officer may soner.

D

lock

CHAP. 8.

Constables,

Dalt. J.P. 300.

Numb. 16.

10 Ed. 4. 17.

Fitz. Office of
J. P. 201.

Escape.

Numb. 17.

How far these
Officers are
bound to obey
the warrants of
the Justice of
the Peace.

31 H. 8. 9. 6.

See the Constables
Oath.

Kitch. 47.

lock the Stocks ; and if need be, he may also put Irons upon the Prisoner. And if the Officer be to convey him to the Gaol, or to the Justice of Peace, he may pinion him, or otherwise make him sure, that he shall not escape. Sixteenthly, If a private man, that is no Officer, take another man for Felony, or suspicion of Felony, within the Precinct of any of these Officers, and bring and deliver the Prisoner to the Officer of the place ; in this case the officer is bound to see the Prisoner safely conveyed to the Gaol : For if he suffer him to escape, he must answer for him. And so also it is, if there be no Officer in the place where the Fellow is taken, and the party carry him and deliver him to the Officer of the next place : for it seems this Officer also, in this case, is bound to look to him at his perill.

Seventeenthly, As touching the execution of the Warrant of Justices of the Peace, these things are to be known. 1. In all cases, where any Warrant is sent from any Justice of Peace, to any of these Officers, touching any matter whatsoever, concerning the Office of the Justice of Peace, it seems he is bound to execute it. And therefore it seems, that in all cases where any Statute doth enable a Justice of Peace to apprehend any person to be brought before him, or to commit any person to the Gaol, as in the cases of those that keep unlawfull Games in their houses, or haunt such houses; or in the case of men that shoot in or carry Guns, or the like; That in all these cases, the Justices of Peace are to command these Officers, and they are to obey them.

2. These

Tything-men, &c.

S E C T. I.

2. These Officers must with all respect, receive the Warrants of the Justices of Peace: For if any Warrant be sent from a Justice of Peace, to any one of these Officers, and he shall shew any neglect or contempt of it, as by casting it into the dyrt, &c. or doe not with all care, secrecy, and diligence, execute the same; these are misdemeanors punishable; and for either of these misdemeanors, the party offending may either be bound to the good behaviour, or be indicted and fined. And by the Statute of 27 H. 8. cap. 5. there is a speciall charge laid upon the Officers within the Countie of *Wales*, That they be carefull to execute the Warrants of the Justices of the Peace there.

3. Let him then consider what he hath to doe; for howsoever this be true, that he is not bound to, nor may he dispute the authority of the Justice of Peace, and whether his Warrant be lawfull or not: For if the Justice mistake, and go beyond his authority in the manner of proceeding in a thing, wherein for the matter he hath Conusance: As if he send a Warrant to him to arrest any man for the Peace or good behaviour, without any cause; or to take a man for a Felony when none is done; yet in these and such like cases the Officer is bound to execute it, and he shall be excused therein. But if the thing whereabout the Warrant is, be such a matter as is out of the jurisdiction of the Justice of Peace, and wherein he is no judge; As if he send his Warrant to the Constable, to levy of the goods of J. S. 10 l. Debt, which he doth owe to him, or owe to another, and all this appeareth upon the Warrant it self;

D :

That

That in this and such like cases it is agreed
 That the Officer may refuse to execute it, and
 may (not without danger) obey it. And truly
 to me it seems necessary we distinguish again
 between things apparent and things concea-
 led, and between lesser and more notorious
 mistakes : and it is reasonable to affirm, that
 if the mistake and error of the Justice of Peace
 be set down in the Warrant and be grosse and
 notorious : As if he send a Warrant to levy of
 a man 10 l. because he hath sworn an Oath,
 Or send his Warrant to one of these Officers
 to command him to sell the one half of the
 Goods of a man convict before him for swear-
 ing. 6. Oaths, when perhaps these Good
 may be worth 100 l. or he send a verball War-
 rant only, to one that is absent and out of
 his presence; or send his Warrant to the *Con-
 stable* of the Parish of *Dale*, as *Constable*
Dale, to levy a forfeiture upon an offender
 for an offence in *Sale*, out of his Precinct.
 Or send his Warrant to a *Constable*, to carry
J. S. to Gaol, because he will not pay him
 Debt he doth owe him; That in these and
 such like cases, the *Constable* is not bound
 obey him, or execute it; nor shall he be ex-
 cused if he doe it. But if the Justice of Peace
 where he hath power to send a man to Prison
 after ten dayes, give Warrant to send him
 prison before the ten dayes be out : Or if
 an Act of Parliament, he is directed to send
 Warrant under his hand and seal, send it only
 under his hand, or *contra* : And where he
 to send it to the *Constable* and *church-warden*
dens, he sends it to the *constables* or *Church-warden*

wardens; or on the other side, and in such like perit mistakes, it seems reasonable to me the Officer should be excused, if he doe execute it; for it is a very hard thing to require of him an exact knowledge of the many Acts of Parliament, so variously and incertainly penned herein, as belong to his Office; and he is in danger to be punished if he doe not execute the Justice of Peace Warrants. So that my advise herein to the Officer is, to consider well of the Warrant; and if he finde the thing to be done, nothing but what is ordinary, and hath been used to be done by these Officers, he is to doe it: but if it be to doe any thing unusual, new, strange, and extraordinary, to be well advised e're he doe it. *Coo. 10. 76. 6. 54. 74 H. 8. 16. Broo. F. Impr. 8.*

And if a Justice of Peace send a generall Warrant to an Officer, to carry *J. S.* to Gaol, or to bring him before him, and expresse no cause why, it seems to me reasonable in both these cases, the Officer in the doing hereof is excusable. But if the Justice have not good cause for it, he may be sued for it: And so perhaps he may be, though he have cause, for the not expressing of it within his Warrant.

If this Officer doe arrest any man under pretence of a Warrant, let him be sure he have the Warrant first. For if the Officer first arrest, and bring the man to the Justice, and then get a Warrant to doe it, this will not make the arrest lawfull. 5. A Warrant of a Justice of Peace by word of mouth, is as good in some cases as a Warrant by writing: As if Ryot, or other breach of the Peace, be in

Warrant.

Deputy.

Coo. 9. 69. 6. 54.

8 Ed. 4. 15.

Dalt. J. P. 28.

his presence, he may by word of mouth command the Officers, or any other, to arrest the Offenders, to finde Sureties of the good behaviour in the first, or Peace in the last Case, and if they refuse to put in suretie, he may by word of mouth command to convey them to the Gaole. But in other Cases he cannot give warrant to an Officer that is absent, and out of his presence; and if he send a Warrant by Message only to an Officer to arrest a man and carry him to Gaole, the Constable may refuse to doe it. 6. If any Warrant come from a Justice of Peace to one of these Officers, to doe a thing, the Officer himself must doe it, and he cannot by word or writing make a Deputy, or command another to doe it, but he may call what aid he will. 7. In the execution of these Warrants, he is to take great care that he follow the Contents of his Warrant, and not to exceed it, for that may be dangerous. And yet this must be understood, that when any thing is commended, all that doth necessarily conduce to the doing of that thing, and without which it cannot be done, is commanded also, and therefore all that, and so much, may be done, albeit it be not set down in expresse words in the Warrant. And it is said that if a Warrant be made to J. S. and J. K. to arrest J. D. In this Case either of them alone may make the Arrest. 8. A Constable or other sworn or known Officer (albeit he be not known to the Party arrested) needs not to shew his Warrant to the man when he comes to serve it upon him, although he demand it, but otherwise it is, when he that is no Officer shall

shall arrest a man upon a Justice of Peace warrant, for he must shew his Warrant, and the sworn or known Officer also must upon the arrest of the party declare the contents of the Warrant to him. 9. A Constable or the like Officer giveth sufficient notice what he is, when he saith to the Party, *I arrest you in the name of the Keepers of the Liberty of England, is.* *Arrest, what is* *Coo. 9. 69.*

&c. for this is an Arrest in Law, and therefore in this case the Party arrested, at his perill, must obey, though he know him not to be an Officer; for if he have no lawfull Warrant, the Party grieved may hereupon have his Action of false imprisonment against him. 10. The Officer must take care that he take the very party named in the Warrant, and not another; for if a Warrant be intended against *J. S.* (who is the Delinquent) but it be sent against *J. D.* another man; in this case the Officer cannot arrest *J. S.* but must arrest *J. D.* 11. If the Prosecutor for the Peace or good-Behaviour, after the Warrant sent, agree, yet the Officer must execute his Warrant.

18. When any one of these Officers hath arrested any man for any cause, the Officer must take great heed that he doe keep the Prisoner safe, and not suffer him to escape, especially if the arrest be for matter of Felony; for in this case, if he willingly suffer him to escape, this offence is Felony in the Officer. *Numb. 18.* *Dalt. J. P. 191.* *Escape.* And be the cause of the Arrest whatsoever it will, if the Officer doe willingly, or unwillingly and negligently suffer him to escape, and doe not take him again, he shall be fined for it according to his offence, by the discreti-

CHAP. 8.

Constables,

11 H. 4. 25.

Stamf. 35.

Arrest.

Numb. 19.

Duty of the
Gaoler.

4 Ed. 3. 10.

11 Ed. 4. 7. Broo.

Faux. Impr.

24. 25. 27.

on of those that shall be Judges of the Cause ; for Officers in these cases may require what help they will. And lest any Officer should flatter himself, that he may escape with an easie Fine, he is to know, that the Judges of his fault may set his Fine equall to the value of all his goods, if his offence so require. And if an Officer take a man upon a Warrant from a Justice of Peace and then letteth him goe, and taketh his word that he shall come again to him such a day, to goe to the Justice of Peace, and the party commeth not; this is an escape in the Officer, for which he may be punished, and the Officer (as it seems) cannot now arrest him upon this Warrant. But if the party in this, or in any such like case, escape of his own wrong, without the consent of the Officer, the Officer in a fresh pursuit may take him again, albeit he be out of his sight and out of his Precinct, as is before shewed. Ninetcenthly, The Gaoler must receive the Prisoner offered unto him freely, and without taking any thing of them that bring him. But it is said, that a Gaoler is not bound to receive any Prisoner from an Officer immediatly, but by a Justice of Peace Warrant. But it is not safe for a Gaoler to refuse such a Prisoner; for if a Constable may, and in some cases must, & is bound by the duty of his place, to bring some Offenders to Gaol without any Warrant of a Justice of Peace (as he is) the Gaoler is bound to receive them so brought. And if a man be arrested for Fellony, and the Constable carry him to the Gaol, and the Gaoler will not receive him, it is said the Constable must bring him back to the Town where

where he was taken, & that the Town must be at the charges of keeping him, untill the next Gaol-delivery. But howsoever the Officer must look to him for fear of an escape: And in this case the best way for the Officer, is to get a Justice of Peace his Warrant to send the Prisoner to the Gaol, and hereupon the Gaoler doubtlesse will receive him. Twentiethly, These Officers, albeit they have power in divers cases, before and after shewed, to imprison a man, yet have they not power in any case to deliver a man imprisoned again. And therefore if a Constable, in case of an Affray, commit an Affrayor to the Prison, the Constable may not afterward set him at liberty again: Or if he take a man upon a suspicion of Felony, and he doth afterwards perceive some cause to make him believe the party apprehended is innocent in the matter; yet may not the Constable deliver him, but he must continue in Prison untill he may be delivered by order of Law, either at the Sessions or otherwise, as the cause shall be. And yet if an Officer shall only put the Affrayors apart into the Stocks, or into some House or Room (as it seems he may) until the heat be past; in this case the Officer, of his own head, may set them at liberty again. 21. Every person that shall be sent to Gaol by a Justice of Peace, having means and ability of his own, must bear his own charges: to be levyed of his Goods and Chattels by the Constable upon a Warrant to him, sent by a Justice of Peace; and not having goods, then to be born by the Parish where the Felon is apprehended, by an indifferent

In what case an Officer may set a Prisoner at liberty again.

Fitz. Office of J. P. 130.

Allowance. Charge of a Prisoner.

CHAP. 8.

Constables,

Numb. 20.
What Pleas
these Officers
shall have being
sued.

21 Jac. 18.

7 Jac. 5.

Costs.

Extortion.

Account.

Numb. 21.
Expences and
Disbursements
of Officers.

different Assessment to be made by the Constables and Church-wardens, and two or more of the Inhabitants, by allowance of a Justice of Peace. 22. If any of these Officers shall be sued for any thing done by them in the execution of their Offices; or if any Suit be brought against their Deputies, or any others which in their aide or assistance, or by their commandement, shall doe any thing touching their Offices, this Action must be laid in the County where the thing was done; otherwise the Defendant shall be found *not guilty*, howsoever the case be: And in all Actions brought against them for the cases aforesaid, they need not plead the special matter, but may plead the generall issue, and give the speciall matter in evidence. And if the Verdict upon triall pass with the Officer, or the Plaintiff be *Non suit*, or suffer his Action to be discontinued, the Defendant shall recover his double costs sustained in the said Suit. 23. These Officers & all the rest hereafter named, must take care that they take nothing of any man for any work they do in the execution of their Office, more than is allowed them, and is their due; for this offence in them is extortion, and punishable by Fine & Imprisonment. 24. These Officers, as well as others, are to give an account to the Parishioners of the moneys they doe any way receive: And this, if they refuse to doe, they may no doubt be compelled unto by the Justices of the Peace, at their Quarter-Sessions. 25. And as touching the disbursements of these Officers about the execution of their Office, as for the carriage of Prisoners to Gaol, the conveying of Rogues, and

and the like, where by any speciall Act of Parliament they are to be allowed it, or any thing towards it, and the means of recovering it is set down; there shall they have the same allowance; and they must pursue that means for the recovery of it. And so in all cases where the Offendor is sent to Gaole by a Justice, there is a means appointed by the Statute of 3 Jac. 10. by the sale of the offenders goods, or a Rate by the Parish, as before. But in other cases also, it seems very reasonable that they should be allowed it again from the Parish: and if the Parish will not allow it, perhaps the Justices of Peace, upon the complaint of the Officer, may devise some way, and doubtlesse they will doe what they can to relieve him. And therefore he is to call his Neighbours, or as many as will come, and with them, or without them, if they refuse, make an equall Rate sufficient to pay all his necessary charges and expences in the doing of his Office; and it will be good to get a Justice hand to it, if he can: and if any refuse to pay it, let him complain to the Justice of Peace, who will either binde him that refuseth to the Quarter-Sessions, or finde some other way to bring him to reason. But as touching their ordinary expences, for meat, drink, &c. in their travells; for this it seems, there is no remedy, but that the Officers themselves must bear it: Howbeit in these things the custome of the place is to be continued.

SECT. 2.

Of the Office of the High and Petit-Constable, about the Peace.

THe authority and duty of all these Officers, *High-Constable*, and *Petit-Constable*, by the Common-Law, consisteth much about the Peace of the Common-wealth; and herein in three things. First, In foreseeing that nothing be done that tendeth either directly, or by means, to the breach of the Peace. Secondly, In quieting or pacifying those that are occupied in the breach of the Peace. And thirdly, In punishing such as have already broken the Peace.

Breach of the Peace, what it is.

And here, lest any man should be deceived in the not understanding what is meant by the breach of the Peace, it must be known, That by the breach of the Peace is to be understood, not only that fighting, which we commonly call the breach of the Peace, but also that every Murther, Rape, Man-slaughter, and other Felony whatsoever, and every Affraying or putting in fear the People of this Common-wealth, whether it be by unlawfull wearing of Armour, or by assembling of People to doe any unlawfull act, are taken to be disturbances and breaches of the Peace.

Numb. 1.

For the better preventing of the breach of the Peace, and that nothing be done against it. First, Any one of these Officers may, without

Tything-men, &c.

SECT. 2.

out Warrant from a Justice of Peace, *ex Officio*, Against suspected persons, as
 and of his own authority, by night or day, arrest suspected persons, strangers, and others, Night-walkers.
 that walk in the night and sleep in the day, or and the like.
 haunt Bawdy-houses, or other suspicious places; Stat. of Winchester.
 or shall doe or commit any outrage or misdemeanor: For if a Constable be informed of a lewd
 man and woman that are together and about 13 Ed. 1. 4.
 to be incontinent and lewd, he may take with 5 Ed. 5. 14.
 him so many of his neighbours as he will, and 13 H. 7. 10.
 arrest the same man and woman, or any such Fitz. Office. f.
 disorderly person, and bring them to a Justice P. 100. 1 H. 7. 7.
 of Peace to be bound to the good behaviour. Bro. Tres. 432.
 2. And the better to apprehend such persons, Bawdry.
 they are to see and take care that Watch, and Numb. 2.
 Ward be duly kept: And for this, these things Watch & ward.
 are to be known. 1. None but Inhabitants Kitch. 47, 48,
 of the same Town are compellable to Watch 49.
 and Ward. 2. It must be by men of discretion, able bodies, and sufficiently armed. 3. It
 must be by turn or by the house, according to the custome of the place. 4. The Constable,
ex officio, is to order it, and he may enlarge it as there is occasion; but he cannot change
 the course of it at his pleasure, and make some Watch, and excuse others. 5. If any neglect
 or refuse to doe his duty, the Constable may present this default at the Assises or Sessions,
 or complain of it to a Justice of Peace: And some hold the Constable may put him in the
 Stocks for his contempt. 6. This Watch is from Ascension to Michaelmas, and must be
 from Sun to Sun; And the Warding then (in congruity of reason) must be the rest of the
 twenty and four hours day. 7. These Watch
 and

CHAP. 8.

Constables,

*Dalt. J. P. 60.
Winch.*

13 E. 1. 4.

5 Ed. 3. 14.

Hue and Cry.

*watch-mans
charge.*

and Wardmen, are to pose all men, to arrest and secure till morning Rogues and others suspicious, and them to bring to a Justice of Peace to be examined : Or, if they will, they may deliver them to the *Constable*, who must take care of them, And if any resist them, and goe away, they may send Hue and Cry after them : and upon this any man may arrest them. 8. For default of this Watch and Ward the Township may be punished. So that all that the *Constable* hath to doe in this case is, to appoint it in an orderly way, who, when, and how it shall be done, and to see it be done ; and if it be neglected, to complain of it, and get it punished. The Watch-men thus appointed, may have from the *Constable* these or the like instructions, (*viz.*)

To keep the Peace amongst themselves ; to continue their Watch diligently untill the Sun rising, without noyse & disturbance of the Inhabitants : That they abide and frequent the common passages ; but so as they have regard also to all other places : That they examine all such persons as they shall see stirring, or shall passe by them, what they be, and whence they come, whither they goe, and the reason of their late travell, or being abroad : and if cause of suspicion be found in them, to stay them ; if they obey not, but resist, to constrain them by force, and to beat them, if it cannot be avoided, for resisting the Peace of the Nation ; if they be too strong, or fly them, to levy Hue and Cry for the apprehending of them, and to set them in the Stocks untill the morning ; and then to have them

them before some Justice of Peace, to be dealt withall according to Justice: To resort to such places where they behold any Candle or fire-light, to know the cause; or where they hear any noise of People especially in Taverns, Innes, and Ale-houses; and finding any there, to admonish them to depart; and refusing, to compell them, as aforesaid. And if any unknown person, horse-man or foot-man, shall passe by them, or that shall drive any Cattle, Horse, or the like; or that shall carry any burthen on Horse back, Cart, or otherwise, to stay them till the morning to justify themselves, unlesse they can render good account, both of themselves, their company, and carriage: and if any Post come by them, to know what number they have, lest Offenders also passe under that pretence. And the Constables are also to be aiding and assisting to these Watch-men upon all occasions.

3. In an Action of Trespas of an Assault & Battery, the Defendant pleaded, That there were divers Fellonies committed in those parts where he dwelt: and he being watching in his house, came into the high-street, where the Plaintiff was at eleven of the clock in the night; and the Defendant came unto him and laid his hands in peaceable manner upon him to see his face, and when he perceived he was a true man, he left him and departed. And this was allowed to be a good justification: For by the Statute of Winchester, Watch-men may arrest Night-walkers, and may oppose them, from whence they come, and what they be: Also any other man may arrest Night-walkers, because

Numb. 3.
Night-walkers.

CHAP. 8.

Constables,

Numb. 4.

Against persons of the Liberties, Servants and Ministers of Justice that ride armed or make Insurrection.

2 Ed. 3. 3.

2 R. 2. 13.

Fitz. J.P. 102.

Seize Arms.
Arrest.

Power of the
County.

Ayde.

Numb. 5.

Against him that doth threaten Murder.

Fitz. Bar. 202.

2 Ed. 4. 36. per

Briam. 3 H. 4. 9.

cause it is for the good of the Common-wealth. 4. If any person whatsoever, except the Keepers of the Liberties, Servants and Ministers of Justice in executing Precepts or their Offices, or such as shall assist them, and except it be in pursuit upon Hue and Cry made to keep the Peace (and that in places where Acts against the Peace doe happen) shall be so bold as to goe or ride armed by night or by day, as to carry any Dags or Pistols; or to be apparelled with privy Coats or Doublets in any Fairs, Markets, or any other place, to terrifie the People: And if any doe so, or if any great Assembly, Riot, or Rumor be made in any outrageous manner, in nature of an insurrection. In the first of these cases the *high-Constable* or *petty-Constable*, may and must take their Armor from them, and seize it to the use of the *Keepers of the Liberties*, and arrest the parties, and carry them to a Justice of Peace, or (as it seems) to Gaol, there to abide during the pleasure of the *Keepers of the Liberties*. And in the last of these Cases, they may and must take with them the power of the County, and suppress them, and arrest the Offenders, and carry them to a Justice of Peace, or commit them to Prison till they put in Sureties for their good behaviour.

5. And if one man doe threaten to kill another, and especially if he lye in wait so to doe, and he who is so threatned doth complain to any one of these Officers (being Officers of the place wherein the party threatening is abiding or doth dwell) and intreat him to arrest the party to finde Sureties of the Peace: In this

this case the Officer may and must arrest him forthwith to finde Sureties ; and therefore carry him before a Justice of Peace ; or being here, to get Sureties, the Officer may presently carry him to Gaol. But some say that his threatening must be in the hearing of the Constable, or else that he cannot doe it. But if the thing be true, it seems in both cases alike: and in such Cases the Constable, if the party have no Sureties ready, may carry him to Gaol, of his own Authority.

2. As these Officers are to take care to prevent the breach of the Peace before it be ; To suppress the breach are they to take care to suppress and alay breach thereof when it is: And therefore in case of Affrayes, in case of Affrayes they are to labour carefully and speedily to frayors. appease them ; wherein these things are to be done. *Fitz. J. P. 130.*
1. If any of these Officers shall see a man presently bent, and in fury going about to break the Peace, as by using of hot words, or by some other like, by which an Affray is like to grow, they may and must straiely charge and command the Persons at debate, in the name of the Keepers of the Liberties of England, to keep the Peace, &c. and to avoid upon pain of imprisonment: And if there be nothing but words between the parties, it seems the Constable can doe no more but this, and may not lay hands on them, unlesse they goe further. But 2. If the parties at variance will not hereupon obey the Officer, and depart, but goe on further to threaten to beat, hurt, or kill, and especially if either of them draw weapon, or give, or attempt to give any blow, then the Officer may, and must keep them asunder by force ; and

Numb. 6.

Fitz. J. P. 130.

Lamb. J. P.

173.

Dalt. J. P. 18.

29.

22 Ed. 4. 35.

21 H. 7. 21.

13 H. 7. 10.

CHAP. 8.

Constables.

Ayde.

21 H. 7. 21.

Fitz. J.P. 130.

Imprisonment.

21 H. 7. 21.

Lamb. J. P.

141. 142.

Officer may
beat, &c.

for that purpose, if there be need, may use his own weapon, and may call and require other to help him, who at their perills must do so. 3. And if the Affrayors shall still proceed, and goe from words to blows, the Officer and his assistants may by force apprehend the Affrayors, and cause them to render themselves, and put them in the Stocks, or in some other Prison or place untill the heat be past, if it be in the night untill the morning, or they may carry them unto the next Gaol, or to the Justice of Peace. 4. If the Affray be great and dangerous, the Officers may make Proclamation that the Affrayors shall depart, and if they refuse or resist, they may commit them to Prison in the Stocks or other fit place, till the heat be over, or that they can carry them to the Justice to finde Sureties, especially if any be hurt in the Affray. 5. If the Officer or any of his Assistants in this service, shall be hurt by the Affrayors, they shall have good recovery against the Affrayors: but if the Affrayors be hurt by the Officers or their Assistants, in doing of their duty herein, the Affrayors shall have no remedy against them: For if the Affrayors shall resist and refuse to obey the Officer in this case he may beat or wound them, and make satisfaction thereof. And yet if another do (that is no Officer), of his own head take upon him to part Affrayors (as he shall not) and in the parting of them he hurt one of them, in this case he that is hurt shall have action of Trespass against him that did hurt him. 6. If he that doth make the Affray, or he doth see the Officer coming to arrest

shall flye into a house, the Officer may in the *Breaking open of* fresh pursuit of him, break open the dores a house, law-upon him to take him, and justifie it; and if *full*.

he fly out of the Officers liberty into another *Fitz. J. P. 130.* Hundred or Tything or into a Franchise, in *Dalt. J. P. 28,* the same Countrey, when he seeth the Officer 29.

coming to arrest him, the Officer may upon *Lamb. J. P.* a fresh pursuit follow him, and take him there; 143, 144.

and so may he also where he doth flee out of *Arrest out of his* one Countrey into another: But in this last *Precinct,*

case, when the Officer doth apprehend the party in another Countrey, he can doe no more with him than a private man may doe (*viz.*)

carry him before some Justice of the Peace of that Countrey wherein he is taken, to cause him there to finde Sureties for the Peace. *Fitz. J. P. 130.*

7. If two men be fighting together, in either of their own or another mans house (the dores being shut) in this case the Officer, if he cannot otherwise get in, may break open the dores to get in to keep the Peace, albe it neither of the parties be hurt.

8. In these cases before, the Officer may and ought to carry them before some Justice of the Peace, to finde Sureties for the Peace, because they have broken the Peace already, and are meet to be bound that they shall not break it again. 9 *Ed. 4. 26.*

9. It is said, that the *Constable* carrying the *Affrayors* to Gaol, may himself take bond of them, to the use of the *Keepers of the Liberty*, for the keeping of the Peace (the which bond he is to certifie into the Exchequer or Chancery, from whence the Proccesse is to be made if the Peace be broken) and thereupon deliver them; and that if they will not

CHAP. 8.

Constables,

finde Sureties, the *Constable* may imprison them untill they doe finde Sureties: But this is not used any where. It is therefore safe to carry them to a Justice of Peace. 10. When the Officer doth carry the Affrayor to Prison, or to a Justice of Peace, so that he is bound over to appear at the Quarter-Sessions, or Gaol-delivery, to answer it; in these Cases the Officer must see then that he appear at the next Quarter-Sessions of the Peace, or the next Gaol delivery, there to object against the Affrayor, as there shall be cause.

21 H. 7. 21. 11. If one make an assault and affray upon the Officer himself, he may take the party & carry him to a Justice of Peace, or to Prison, as he may. Lamb. J. P. 14. Fitz. J. P. 14. in case of an Affray done upon another man.

12. If an Affray be made in the presence of the *Constable*, and he doe not his endeavour to pacifie it, he may be fined for it at the Sessions, according to the discretion of the Justices: But if the Affray be in another place, and notice be given thereof to the *Constable*, and he doe not his best to pacifie it, it is said he shall not be fined for this; but let this be doubted, and *Constables* advised not to trust to it, but to doe their utmost to suppress all Affrays, and keep the the publique Peace every where within their Precincts. And in this case every private man being present, and during the time of the Affray may and must doe his best to quench and alay it. But he may not hurt or imprison the Affrayor, unless some man be hurt in the Affray.

Numb. 7. 3. For the duty of these Officers after the Peace is broken, If the Peace be but newly

After the Peace is broken.

and freshly broken by an Affray, & the officer have notice of it, it hath been said he may arrest the parties, and carry them before a Justice of Peace, to finde Surety for the Peace, because they have broken the same already, and are meet to be bound that they shall not thenceforth break it again: But it seems this is not law at this day, for it hath been resolved that a Constable *ex Officio*, and without a Warrant from a Justice of Peace, may not imprison any man for an assault or affray, except he be present at the affray himself, *In Sharrets Case, Hill. 37 Eliz. C. B.* But in all Cases where an Affray is past, this Officer may by Warrant from a Justice of Peace, take and imprison the Affrayors; and in case where one is hurt in the Affray, and thereby in peril of death, he may *ex Officio*, and without any such Warrant arrest and imprison the Affrayors: For in this Case when one hath received a dangerous hurt in the affray, the officer after the Affray is past, may and must arrest and imprison him that did the hurt, til he give Surety, to appear at the next Gaol-delivery; or otherwise he may, with lesse labour than to carry him to Gaole, carry him to a Justice of Peace, who ought to take such order as the party may give such Surety: For the fact may fall out to be Felony, if he that is hurt happen to die within a year and a day next after the hurt done. And if the Officer doe not so, or suffer such a person to escape, he may be deeply fined for it. And in this case also it is said, that the officer may, after he hath arrested him that gave the wound, keep him a while in some other

Bro. Faux. Imp. 6. Fitz. J. P. 131. Dalt. J. P. 39. 38 Ed. 3. 6. 12. Ass. 56 10 H. 7. 20. Pont. de Pace. 13.

Arrest.

CHAP. 8.

Constables,

Numb. 8.

*Against persons committing Fel-
lony, or suspect
of Fellony.*

Fitz. J.P. 201.

1 R. 3. 3.

*Lamb Office of
Const. 17.*

11 Ed. 4. 4.

Bro. Faux.

Impr. 24.

place out of the common Prison, untill it may be known whether the party will live or not.

If Fellons or Murderers be in the Village, and these Officers of the Village have notice of them, it is their duty to gather men together and to apprehend them: And if any Fellow be taken, it is the Constables Office to see him conveyed safely to Gaol: And any other man, as well as an Officer, may arrest and keep in hold such a man as he doth know to have committed any Fellony. And as touching persons suspect of Fellony, it is said, That if any man doth suspect any other man of any Fellony that he hath committed, and doe declare the same to any one of these Officers, that thereupon he may if the party suspect be within the limits of his Office, arrest and bring him (& with him he shall doe well to bring the other party that did suspect him) to the Justice of Peace to be examined. But as touching the arresting of another man upon the suspicion of a third person, it seems the Law is otherwise: For it is the opinion of the whole Court, in the 17 Ed. 4. 5. and in 5 H. 7. 4. That one cannot imprison another man upon the suspicion of a third man for Fellony, unless he himself have some cause of suspicion also. And that one man, albeit he be an Officer, cannot justifie the imprisonment of another man suspected by a third man, and at his commandement that doth suspect: And of this opinion was Mr. Justice Bridgman, and the whole Court of the Marches of Wales. And therefore it was held there, That if I suspect a man for Fellony, and give notice hereof to the Constable, that he cannot arrest him

him

in upon my suspicion. And yet when I have
 rested him upon mine own suspicion, and
 delivered him to the Constable, that in this
 case the Constable must look to him at his per-
 son. And if the Constable from this doe receive
 suspicion of him (as he may) upon a false or
 any slight report, I think it reasonable and ju-
 stifiable in him to arrest him. But as touching
 this matter, and for the clearing of this point,
 these things are to be known.

1. That any one of these Officers, or any o-
 ther private person, whatsoever, having cause
 to suspect another of a Felony committed by
 Murder or Theft, may himself arrest and ap-
 prehend such person suspect; but herein he
 (whosoever he be) must take heed to three
 things: 1. That there be a Felony committed,
 or at least confidently reported to be commis-
 sed; for otherwise there can be no good cause
 to suspect any man. 2. That there be some
 cause to suspect the party arrested more than
 another. 3. That after the Arrest, the party
 that doth arrest him, doth carry him to a Ju-
 stice of Peace, or to the common Gaol, to the
 end that the party accused may be indicted or
 acquitted at the next Sessions, &c. Or if it be
 a private man that doth make the Arrest, that
 he doe deliver the party arrested to the Con-
 stables, &c. of the place.

2. These, on any, or either of these are
 held to be sufficient causes of suspicion: That
 the person suspect is indicted for the same Fel-
 lony. 1. If the Felony be a murder; That he
 was present at the time of the Murder commit-
 ted with a Sword drawn in his hand. 3. That

*Causes of suspi-
 cion of a man
 for Felony.*

19 Ed. 3. 39. 9.

4 H. 7. 4.

7 H. 4. 35.

Ed. 4.

CHAP. 8.

Constables,

27 H. 8. 21.

14 H. 8. 16.

2 H. 7. 15.

11 Ed. 3. 44.

21 H. 7. 27.

Fitz. J. P. 201.

Numb. 9.

the person suspect, is a person of evill name; or is a Vagarrant in the Country where the Fellony was done. 4. If the Fellony be a Robbery, and the party suspect is found with some part of the Goods in his hands, 5. If one apprehended for the same Fellony, hath taken his oath upon a Book, that the party suspect is one of the Fellons. 6. That it is the common fame and report of the Country that the party suspect did the fact. 7. If the party suspect doth flie upon the Fellony committed. 8. If there be a *Hue and Cry* out against the Fellony, and the person suspect and apprehended is such a person as is described by the *Hue and Cry*; or if the Fellony be for stealing of Cattel, and the party suspect is taken driving such Cattel as are set forth by the *Hue and Cry* to be stoln: And yet hereby an honest man may be apprehended; for a *Hue and Cry* may be raised where no Fellony is done. But in this case he that raised it may be punished, and he that doth arrest the party is to be excused; or there may be no other cause to suspect this man but the possession of the Goods, and he might come by them lawfully: howsoever this is cause enough to give him that doth arrest ground of suspicion. 9. If *J. S.* would have arrested one that had robbed him, and the party suspect forbid him, and saith he shall not arrest him; this is sufficient cause to make him to be suspected for an accessary. And therefore in all these and such like cases a man may justifie the arresting of the party suspected.

3 What shal be said a sufficient cause of suspicion, what not, & shal be tryed by the Judge.

4. It

Tryal.

4. It is the duty of these Officers, to doe their utmost endeavor, with all diligence, to finde out and apprehend Fellons: And if there shall be herein any neglect found in them (especially if it be for favour or reward) they may be grievously punished. And for this *Search.* cause they may, and they must, after a Felony is done, either by, or without the Warrant of some Justice of Peace, make diligent search for him that did it, in such places within their *Numb. 10.* Liberty as they shall understand to be likely to finde him in; for it is the chief part of their Office to repress Felony: and albeit it be a mans house he doth dwell in, which they doe suspect the Fellow to be in, yet they may enter in there to search; And if the owner of the house, upon request, will not open his dores, it seems the Officer may break open the dores *Breaking of a* upon him to come in to search: And so also if *house open,* seems the Officer may search for Coods stolen, *lawfull.* as he may for the Fellow himselfe that doth steale them: And if the Officer, upon search, cannot finde the Fellow, it is his duty to raise a *Hue and Cry* and send him, directing it to *Hue and Cry.* these Officers, whose duty it is carefully to pursue them as soone as they receive them: and it is the duty of all other man, being called upon by Officers and at the Cry of the Country, to be ready to pursue and arrest Fellons. And upon the *Hue and Cry* any man may arrest him that is taken with the things (be he never so honest) and he may deliver him and the Goods to the Constable of the Town to be kept safely.

5. If they be about to arrest any man suspected

CHAP. 8.

Constables,

Ayde.

spected of Fellony, they may require the aid and help of others, both to arrest and carry to Prison the party suspected; and the parties required must in this case help them at their peril.

10 Ed. 4. 17.
Fitz. J. P. 21.

*Carrying of a
Prisoner to
Gaol.*

6. If a private man arrest another man (as he may) upon his own suspicion, and then deliver him to the Constable of the place, he must then look to him, that he suffer him not to escape at his peril, but that he bring him, and the party with him that did arrest him, to a Justice of Peace, or that he bring the party arrested to the Gaol; for in this case the Constable may not refuse to take charge of a Fellow so brought unto him by another. And if there be no Constable of the place where the party is apprehended, and the party that doth arrest, doth bring the Prisoner to the Constable of the next Parish, it seems this Constable, in this case, is bound to take charge of him at his peril.

*Seizure of
Goods.*

Fitz. J. P. 201.
Numb. 11.

7. If a man flie for Fellony, the Constable of the Village where his goods are, must seize them, and keep them safe, and not part with any of them, but so much only as is needfull for the sustentation of the Prisoner, and if the goods be impaired, the Constable must answer for them; and therefore it will be his wisdom to take them by Inventory, and in the presence of honest Neighbours.

8. An Action of Trespas was brought by a man for an Assault and Battery of his Servant, whereby he did lose his Service three dayes: And the Defendant pleaded, that A. was robbed at midnight of Goods, to the value of two pounds

pounds, whereupon the said *A.* came to the Constable, and prayed him to search for the suspicious persons, and to apprehend and arrest them; and accordingly he did search, and found the same servant walking suspiciously in the street in the night, and therefore he would have arrested him, but the said servant fled, and would not yeeld to the Arrest; and the Defendant, by the Constables commandement, pursued and took him. This was adjudged a good Plea in Barre: For when a Felony is committed, the Constable or any others, upon suspicion of persons that are suspicious, may arrest them; and if they will not yeeld to the Arrest, but assault him or them that doth arrest him, they may justifie the beating of him, for that he doth resist the Peace and Justice of the Common-wealth, when he doth forcibly strive to flie, and not to be justified by it. If a *Hue and Cry* be levied and pursued, That a Horse of such a colour or mark; so many Beasts of such a sort, or age; or so many Sheep, of such a brand; be stolen, and one is taken leading or driving of the said Horses, Beasts, or Sheep: In this case it is lawfull for these Offices, or any other man, to stay and apprehend him, and if he that doth apprehend him be not an Officer, he may commit him to the Constable of the place where he is apprehended, and by him to be put in the Stocks, or safe kept untill he be delivered by course of Law, though the party apprehended be not a man of evil name or fame, but a man of good credit: for seeing the Law hath by the *Hue and Cry* accused him, he must be by a courle

Search.

Arrest.

Beating justifiable.

Hue and Cry.

29 Ed. 3. 9.

Pulton de Pace

12. 5 H. 7. 4

Numb. 22.

Arrest.

27 H. 8. 13.

5 H. 7. 4.

2 H. 7. 15.

21 Ed. 4. 4.

a course of Law again acquitted and discharged : And in this case, he that is so taken shall not have an Action of Trespass, Fals-imprisonment, or other remedy, against him that did apprehend him, or against the Constable to whom he was committed, albeit he be afterwards quit of the Felony. In an Action of Fals-imprisonment, the Defendant pleaded, That there was a Felony done, and he suspected the Plaintiff to have done it, and therefore he arrested him : In this case this was held no good Plea ; for he should have shewed some ground and cause of his suspicion. And in an Action of Fals-imprisonment it is no plea for the Defendant to plead, That it was told him that the Plaintiff had brought the Cattell to the Town, and put them in a blinde corner, and that there was great cause of suspicion that the Plaintiffe had stollen them, whereupon he did arrest him, for suspicion only, without a Felony committed, is no cause to arrest another. And in an Action of fals-imprisonment, the Defendant pleaded, That J. S. was poysoned, and that the common voyce and fame of the Country was, That the Plaintiff had poysoned him ; whereupon the Defendant apprehended the Plaintiff, and committed him to Prison, as was lawful for him to doe. And this was adjudged a good plea in Barre of the said Action ; for common voice and fame of the Country is cause of suspicion of Felony when a Felony is committed : but when there is no Felony done, it seems this is not cause sufficient to warrant the arresting of such a person. And yet, as before it appeareth, the

the accusation of a man (where no Felony in truth is done) by *Hue and Cry*, is cause sufficient to warrant the arresting of such a person as is described by the *Hue and Cry*. In an Action of Fals-imprisonment the Defendant did plead, That before the imprisonment *A.B.* was slain at *C.* and that the Plaintiff was in the company of those that killed him, at the time of the Felony committed, and the common voyce and fame of the Country at *C.* was, that the Plaintiff was party to the Felony; whereupon the Defendant finding the Plaintiff at *C.* arrested him for suspicion of Felony, and committed him to the Sheriffe, &c. and this was allowed a good and sufficient Plea.

7 H. 4. 10.
Dyer 276.

9. If a man doe assault another in, or neer Imprisoning him the high-way, to rob him, and he that doth that doth at- make this assault is taken and brought to the tempt to rob: Constable of the place, in this case the Con- Fitz. Bar. 202. stable must take him to his ward, and carry 2 Ed. 4. 26. him before a Justice of Peace to give Sureties Numb. 13. for his good behaviour. In an Action of Tres- Carrying one to pass of Assault and Battery, and Fals-imprison- a Justice or to ment the Defendant pleaded, That the Plain- Gaol. tiff lay in wait in a high-way, to rob such persons as travelled that way, and assaied to rob one *L.* and drew his sword, and commanded the same *L.* to deliver his purse, whereupon *L.* fled, and sevyed *Hue and Cry*, and this Defendant being travelling that way, pursued the Plaintiff, and took him, and committed him to the Con- Arrest. stable to be put in the Stocks, who did it accordingly: And this was adjudged a good justification; for every man may arrest him that doth a Felony, or him who maketh it apparent that he

CHAP. 8.

Constables,

he doth intend & goe about to commit a Felony, for that he doth thereby manifest himself to be a principall breaker of Law and Peace of the Nation.

Hue and Cry.

10. The Constable is is to levy *Hue and Cry* when there is cause, and to send it East, West, North, and South; and it is best to expresse in the *Hue and Cry* the nature of the thing stoln, colour, and marks, and to describe the number of Fellons, their Horse, Apparrel, &c. And this Officer, receiving a *Hue and Cry* after a Felon, must with all speed, make diligent pursuit with Horse and Foot after the offenders, from Town to Town the way it is sent, & make diligent search in his own Town: And the Constable and Hundred both may be punished for neglect herein. And all other men must hereupon be industrious to take them. Hitherto for the most part we have shewed you nothing but what is of the primitive and immediate authority and duty of these Officers, and what they may and must doe, as Officers without any commandement or authority from others. But for as much as a great part of their duty (especially concerning the Peace) resteth in making the due execution of the Precepts of higher Officers, and especially of the Justices of Peace, who be (as we were) immediately set over them: We are therefore in the next place, to shew you some part of that which they are to doe in that behalf.

In executing of the Precepts of others.

Albeit these Officers be subject to the commandements of the Justices of Gaol-delivery of Oyer and Terminer, and of some higher Justices

Justices; yea, and to the Precepts of Sheriffs, *I amb. Const. off.*
 Coroners, and Stewards of Leets, and of other *Numb. 14.*
 Officers, in some certain Cases: yet because
 they are called upon most commonly by the
 Justices of Peace, so as at this day their Office
 is for the most part conversant about the exe-
 cution of their Warrant: For if the Justice of
 Peace doth understand by complaint, that any
 man hath stoln or slain, or any Servant or La-
 bourer, without Licence, hath departed out of
 his Masters service; or any that liveth idly
 or suspectedly, knowing once in what Parish he
 is, he doth write to any one of these Officers,
 to command him to bring this person before
 him, and then he doth examine him, and if he
 finde cause, he doth commit him to some Con-
 stable or Officer to convey him to the Gaol,
 there to abide till the Justices meet at their
 Quarter-Sessions, or at their Gaol-delivery,
 that the Law may either condemn or acquit
 him; And to these Precepts these Officers
 ought especially to shew themselves obedient,
 and then also especially when their Aide is
 called for to suppress Ryots, unlawfull Assem-
 blies, and such like notorious breaches of the
 Peace. And 1. howsoever it be so, that if a
 man have Goods stoln, and he doth suspect
 that such a man hath stoln them, and he com-
 plain thereof to the Constable, so that now
 the Constable hath cause to suspect him also;
 That the Constable in this case, of his own au-
 thority, without a Warrant from a Justice of
 Peace, may search for the Goods and the Fel-
 lon; and if he finde the Goods, seize them; and
 if he finde the Fellow, apprehend him: yet for

Fellony.

Search.

Dalt. J. P. 289.

Numb. 15.

Search.

Deputy.

Dalt. J.P. 290,
291.

Dalt. J.P. 291.

Coo. 5. 59.

Broo. Faux.

Impr. 2.

Warrant.

Arrest.

Stocks.

the most part the Constable not knowing his authority, or the danger, is so fearfull and remiss herein, that he doth nothing until he have a Warrant of a Justice of Peace to provoke and enable him so to doe. And if such a Warrant be sent to him from a Justice of Peace, to search after Goods stoln, and the party that is suspected to steal them, the Constable may, and must execute this Warrant accordingly. 2. If a Warrant come to any of these Officers, from a Justice of Peace, to bring such a man before him, to give Sureties for the Peace or Good-behaviour: In this Case the Officer cannot make a Deputy, or command another to doe it, but he may require the aid of others to help himself in the doing of it. 3. If a Warrant be directed to this Officer from the Justice of Peace, to bring any person before some Justice of the Peace of the County, for the Peace or Good-behaviour, and the cause (as it ought to be) is set down in the Warrant: In this Case the duty of the Officer is first to finde out the party, and having found him, to require him in the name of *The Keepers of the Libertie of England*, to goe with him to a Justice of Peace, to put in security according to the Warrant: The which if he refuse or delay to doe, or if he offer to run away from him, or resist him, then must the Officer forthwith arrest him and convey him to the Prison (if the Warrant be so, as usually it is) or put him in some Stocks until he can conveniently have strength to goe with him, without carrying him to a Justice of Peace; and then must the party remain in Prison untill he shall voluntarily

tilly offer and finde sureties, according to the Warrant. And if the party, upon the first demand thereof made by the Officer, doe yeeld to goe and finde Sureties, then may not the Officer absolutely arrest him : And if he be obstinate and will not yeeld to the Officer, but resist him, the Officer may justifie the beating or hurting of him. And of this Warrants execution, and of his proceedings upon it, the Officer must give an account to the Justices of the Peace, at their next Sessions of the Peace. And if the party doth yeeld to goe to a Justice of Peace to give Surety, according to the Warrant, but will not goe to the same Justice that made the Warrant, but to some other Justice he doth name ; herein the Officer may, if he please suffer him to have his will, howbeit in this case the Law doth give the election to the Officer, and he may bring the party before what Justice of Peace he please : And yet if the Warrant be to bring the party before the same Justice of Peace that made it: In this case the Officer must bring him before the same Justice, and cannot bring him before any other. And if the party being before the Justice of Peace, refuse to give Surety according to the Warrant, and the Warrant have words of authority to the Officer, to carry him to the Gaol as most commonly every Warrant hath, then may the Officer carry him to Prison without any new Warrant from the same or any other Justice of Peace so to doe. And in these Cases also the Officer is to consider, whether the Warrant doe come directly from the meer authority of the Justice of Peace, or else be grounded on

Beating.

Carrying to Gaole.

CHAP. 8.

Constables,

Warrant.

Dalt. J. P. 137.

1 Ed. 4. 6.

Numb. 16.

Superfedeas.

Arrest.

a Writ of *Supplicavit*, sent down from the higher authority, (which difference ought to appear in all well made Warrants :) For if the Warrant be grounded on such a Writ, then may the Officer compell the party to goe to the very same Justice or Justices of Peace that made the same Warrant, or else he may carry him to Gaol. Neither is it requisite in this case that the Officer should dance up and down after the party untill he can finde our Sureties, but he may detain the prisoner untill he can bring Sureties to the Officer. And the Officer that doth arrest a man upon such a Warrant of the Peace or Good-behaviour, must see that he doe afterwards bring the party to the Justice of Peace to give Sureties, or to the Gaol; for if he doe not so, he may be punished for it by fine at the Sessions, and (as it seems also) by Action of false-imprisonment, at the Suit of the party arrested. And if the party against whom such a Warrant is granted, hearing thereof, doth (as oft times he doth) offer himself with Sureties for the cause, to some other Justice of Peace, and he doth binde them, or he findeth Sureties in some of the Courts at *Westminster*, and so hath a *Superfedeas* out of the *Chancery*, upper-Bench; or from any Justice of the upper-Bench, or from any Justice of Peace of that County, directed to all the Officers of the County to discharge the same Surety of the Peace or Good-behaviour, and he hath the same ready to shew to such Officer as shall come to him with the Warrant, as aforesaid, and doth shew and deliver the same to him when he is about to execute the same

Warrant.

Warrant : In this Case the Officer is not to meddle with him : For if the Officer shall require the Party to obey the Arrest, he may refuse it; and if the Officer shall arrest the Party, he may have an Action of false-imprisonment against the Officer for it. And by this *Supersedeas* the Officer is discharged of any duty touching the Warrant of the Justice of Peace directed to him : But let the Officer see that he keepe his *Supersedeas* safe for his discharge, if he be questioned for not serving the Warrant. And it is not amisse for him to give notice of the same to the Justice of Peace, from whom he received the commandement of service, that thereby he may see the cause why the same was not done. But in these Cases some say that another Justice of Peace cannot discharge the Warrant of the first Justice of Peace, untill the party be bound indeed. Howbeit if such a *Supersedeas* cometo the Officer that hath the Warrant to arrest; It seems that by this he is discharged, and that he is to obey the *Supersedeas*, especially if he know not whether the party have given Bond or not.

Hitherto we have spoken of the Office of these Officers, set forth by the ancient common Laws of the Nation. And now we come to speak of the same as it is enlarged by divers Statutes, wherein also we shall finde the same difference we had before : That by the same Statutes they are required and enabled to doe something as of their own authority, and without any commandement or authority from others; and other things they are required and enabled

enabled to doe when they have commandment from the Iustices of Peace, or some other superior power, so to doe.

SECT. 3.

Of the Office of the High-Constable and Petit-Constable against Prophaners of the Lords-Day.

FOR the better understanding of their Duty herein, these things are to be known.
 1. This day is by every one to be sanctified and kept holy; and men must be carefull herein to exercise themselves in the duties of Piety and true Religion, publicquely, and privately and every one on this day (not having a reasonable excuse) must diligently resort to some publicque place where the service of God is exercised, or must be present at some other place, in the practise of some Religious Duty, either Prayer, Preaching, Reading, or Expounding the Scriptures, or conferring upon the same. 2. None may on this day meet out of their own Parish at any Sports whatsoever, nor may they meet within their own Parish for Bear-bayting, Bull-bayting, Enterludes, or other unlawfull exercises, under pain to forfeit three shillings four pence for every offence, to be levied by distresse and sale of Goods; and for lack of distresse, to sit three hours in the Stocks: Nor may any one on this day keepe or be present at any Wrastring, Shootings, Bowlings, Ringing of Bells for pleasure,

pleasure, Masque, Wake, Church-Ale, Dancing, Games, Sport or Pastime whatsoever, under pain to forfeit five shillings, if he be above fourteen years old, and twelve pence by him that hath the Government of him, if he be under fourteen yeers old, to be levied by distress and sale of goods; and if no distresse be to be had, to sit in the Stocks three hours.

3. No Carrier may goe with his Horses, no *Carriers.*

Waggoner, Carter, or Wain-man may goe with his Cart, Waggon, or Wain, or Drover with his Cattell on this day, under pain to forfeit twenty shillings for every offence, to be levied by distresse and sale of his Goods, if he be questioned within six weeks after the offence done. But there shall be but one twenty shillings forfeited for one journey, although he passe through twenty Parishes, and this twenty shillings that Parish shall have where the distress is first taken.

4. No Butcher may kill *Butchers.* or sell any victuals on this day, under pain to forfeit six shillings eight pence, if it be questioned within six weeks after the offence done. to be levied by distresse and sale of Goods,

5. None may cry, shew forth, or put to sale *Tradesmen.* any Wares, Merchandises, Fruits, Herbs, Goods, or Cartel on this day, unlesse it be in an Inne, or Victualling-house, and for such as cannot otherwise be provided for; and unlesse it be the crying and selling of Milk before nine in the morning, and after four in the afternoon, from the tenth of *September* to the tenth of *March*; and for the rest of the year before eight in the morning, and after five in the afternoon, under pain to forfeit the things so

CHAP. 8.

Constables,

Travellers.

*Drinking.
Tipling.*

Carrier.

*Serving of Pro-
cesss.*

cryed or offered to sale. 6. None may on this day, without good cause by allowance of one Justice of Peace, travell, under pain to forfeit ten shillings ; nor carry any burthen, nor doe any worldly labour, under pain to forfeit five shillings, both these forfeitures to be levied by distresse and sale of Goods : And if no distresse to be had, to sit in the Stocks three hours. 7. None may on this day, or the dayes of Humiliation, or Thanksgiving, use Dancing, prophanely Singing, Drinking, or Tipling, in any Tavern, Inn, Ale-house, or Tobacco-house, nor be there : Or grinde any Corn at a Mill, but upon cause to be allowed by one Justice of Peace, under pain to forfeit ten shillings a peece, both he that is in the Inne, and he that keeps the Inne, the Millar and he that owes the Corn, to be levied by distresse or sale of Goods ; and for lack of distresse, to be set six hours in the Cage or Stocks. 8. No Traveller, Waggoner, Butcher, Higler, Drover, or their Servants, shall come into their Inne or Lodging on *Saturday* night after twelve a clock ; nor goe from thence *Monday* morning before one a clock, without necessary cause to be allowed by one Justice of the Peace, under pain of the forfeiture of ten shillings by the Inne-keeper, and ten shillings by the Traveller, and to be levied by distresse and sale of Goods ; and for lack of distresse, to sit six hours in the Stocks or Cage. 9. None may execute any Writ, Order, or Warrant, on this day, dayes of Humiliation or Thanksgiving, but in case of Treason, Felony, breach of the Peace, and prophanation of the day, under pain

to forfeit five pounds, to be levied by distresse and sale of Goods; and for want of distresse, to sit six hours in the Cage or Stocks, and the serving of the Proceſſe is void. 10. None (but *Coaches, Boats.* in case allowed by one Justice, or for Gods Service) may travell with a Boat, Wherry, Lyter, Barge, Horſe, Coach, or Sedan, on this day, under pain of forfeiture of ten shillings by him that is carryed, and five shillings by him that doth carry, to be levied by distress and sale of Goods; and for lack of distresse to sit six hours in the Stocks or Cage. 11. All Constables, Church-Wardens, Overseers of *Officers.* the Poor, Governours of Companies of Watermen, and other Officers, must, upon sight and knowledge, or information of any of these offences before-named committed, seize and *Seize Goods.* secure the Goods and Wares cryed, shewed forth, or put to sale, and make diligent *Search.* search for the discovering, finding out, and punishing of the offenders, under pain of twenty shillings, to be levied by distresse and sale of Goods, and this punishment they must (as it seemes) endeavor by carrying the Offendor to a Justice of Peace.

And this, it seems, is hereby lawfull to be done by one of these Officers *ex Officio*, and without a Warrant, hearing or seeing any one prophane this day, by any of the particular offences aforesaid. Also if a Warrant be sent to the Constables, Church-Wardens, and Overseers of the Poor of the Parish or place, to levy the forfeitures, or to inflict the punishment aforesaid, they must pursue their Warrant, and doe it under pain of twen-

CHAP. 8.

Constables,

ty shillings forfeiture. Stat. 1 Car. 1.
3 Car. 1. Ordin. 6. April, 1644. Act 19. A-
pril, 1650.

SECT. 4.

*Of the Office of High-Constables and
Petit-Constables against Swearers.*

AS Touching this, these things are to be premised. 1. The former Act is repealed. 2. Every one that sweareth is to forfeit for the first offence as followeth. The Lord, and all above him in degree, thirty shillings : The Baronet, or Knight, twenty shillings : The Esquire, ten shillings : The Gentleman six shillings eight pence : Any other Man or Woman, single or married, three shillings four pence : And for every offence afterward, twice as much. And for the tenth offence, being proved by verdict or confession, he is to be bound with Sureties to the Good-behaviour for three years : And for lack of payment or giving security, to pay it, and distress to levy it. If he be above twelve years old, he is to sit by the heels in the Stocks three hours for the first offence, and six hours for every offence after. If under twelve years, he is to be whipped by the Constable, or Master, or Father, in his presence. 3. Swearing after the Surety for the Good-behaviour given,

given, is a breach of the bond. 4. Any Officer, Constable, Church-Warden, or Overseer of the Poor, may, *ex Officio*, that heareth it, bring the offender to a Justice to be punished. And if any one Justice of Peace send his Warrant to any high Constable or petit-Constable, to doe execution upon this Statute, they are to see it done accordingly. 5. He that is sued for doing any thing on this Law, may plead the generall Issue, and if it goe *Pleading* with him, shall recover treble cost. *Act 22. Costs.*
Junii, 1650.

SECT. 5.

Of the Office of the High-Constable and Petit-Constable, against Adulterers, and Incontinent persons.

FOR the knowledge hereof, take these things. 1. If any shall marry or have the carnall knowledge of the body of his or her Grand-father, or Grand-mother, Father or Mother, Brother or Sister, Sonne or Daughter or Grand-childe; Father or Mothers Brother or Sister, Fathers Wife, Mothers Husband, Sonnes Wife, Daughters Husband, Wifes Mother or Daughter, Husbands Father or Sonne, and confesse it within twelve moneths after, or if it be found by verdict before Justices of Assize and the Peace, it is Felony, wherein is no Clergy. 2. If any married Woman, whose Husband hath

hath not been three years absent beyond Sea, or by common report reputed to be dead, or three years together from her, and she doth not know him to be alive, shall be carnally known by any but her Husband, except she be ravished, it is Fellony, and both Man and Woman shall dye without Clergy. 3. If any shall carnally know any unmarried Maid, or Widdow, they both, if they confesse it, or it be found by verdict, shall be committed to the common-Gaole, without Bayle, for three moneths, and untill they respectively give Security before some Justice, to be of good behaviour for one year: The second offence is Fellony without Clergy. 4. If any Man or Woman be committed for a common Bawd, or keeping a common Bawdy-house, For his first offence he is to be openly whipped, set in the Pillory, and marked with a hot Iron in the forehead, with this letter B. and then sent to Prison or Bridewell for three years, without Bayle, and untill they give Surety for their good Behaviour for life. The second offence is Fellony without Clergy, *As* 10. May, 1650. and 9. Aug. 1648. 5. No party to be beleev'd against the other, nor Husband against the Wife, nor wife against Husband. 6. If any of these Officers be informed, that a Man or Woman be committing of Adultery or Fornication together, he may and ought to take company with him, and if he finde it so, he may arrest them, and carry them both to Prison, till they give Surety of their good Behaviour.

7. If any Warrant come from a Justice of Peace to any one of these Constables, to apprehend any such lewd person, that he may put in Sureties for his good Behaviour, he must execute it duly, according to the contents thereof.

SECT. 6.

Of the Office of the High-Constable and Petit-Constable in common, about Rogues.

IT is the duty of all these Officers to punish Rogues and Vagabonds. As touching this part of their Office, two things are to be known First, What a Rogue is, and who is to be accounted a Vagabond. Secondly, What is to be done unto him.

Against Rogues and Vagabonds
39 Eliz. 4.

As touching the former of these, these things are to be known. That all the persons hereafter mentioned, being above the age of seven years, and offending as hereafter is mentioned, shall be adjudged Rogues, or at the least shall be punished as Rogues. (*viz.*)

1 Jac. 7.
Dalt. J.P. 96.
Lamb. J.P. 192.
39 Eliz. 17.

1. All persons going about begging upon any pretence whatsoever, as Sea-faring men, pretending losses of their Ships or Goods upon the Sea, or such as call themselves Scholars, or the like. Secondly, All Idle persons going about the Country, either using any subrill craft, or unlawfull Games, or being Fortune sellers,

who a Rogue is.
Numb. 1.

tellers, or Juglers, or using any such crafty Science. Thirdly, Stage-players declared to be Rogues, and to be punished by *Ord. Feb. 1647.* 4. All persons that be, or utter themselves to be Proctors, Procurers, Patent gatherers, or Collectors for Gaoles, Prisons, or Hospitalls. And yet Patent-gatherers for fire, or the like, albeit perhaps they may be within the words of the Statute, yet are they not had or reputed as Rogues, nor so to be dealt with; for such Patents are alwayes made with a *non obstante* the Statute. 5. All Fencers, Bear-wards, and Minstrels, wandring abroad. 6. All Tinkers, Pedlers, and petty-Chapmen; and also Glasse-men, that Wander up and down the Country to sell Wares: But if they be going to a Fair or Market only, they are not to be taken as Rogues. 7. All wandering Persons and common Labourers, being persons able in Body, using Loytering, and refusing to work for such reasonable wages as is taxed, or commonly given in such parts where such persons shall dwell or abide, not having living otherwise to maintain themselves; and yet such Persons as be of any Parish, and have able bodies to work, and doe not wander abroad out of the Parish, though they refuse to work for the wages given or taxed, are not to be sent to their place of birth or last habitation, &c, but to the house of Correction. 8. All poor persons that are appointed to ask relief in the Parish where they dwell, by the Overseers thereof, if they shall beg in any other sort than is so appointed them, or shall beg by the high,

high-ways, though in their own Parishes. And yet these persons are not to be sent to their place of byrth or out of the Towne, except it be to the house of Correction; and so also it seemeth of all other persons that beg in the Parish where they dwell, without the appointment of the Overseers; in these Cases they are to be sent to the house of Correction. 9. All persons (not being Fellons) wandring and pretending themselves to be Egyptians, or wandring in the habit, forme, or attire of counterfeit Egyptians. 10. All such persons, as being punished for Rogues, and having a Testimoniall, through their own default shal not pursue the order appointed by the Testimoniall aforesaid; for so often as they shall break the same, they are to be taken and whipped again, untill they come to the place appointed them by the Testimoniall. 11. All such poore persons diseased and impotent that (being licenced) travell from their home to the City of *Bathe*, or Towne of *Buxton*, to the Baths, for ease of their griefs, or from thence homeward that shall beg; or if such persons be not licenced by two Justices, or shall not return home again according as they are limited by their Licence, or shall not be provided of relief for their travell. 12. All Souldiers or Mariners that shall beg or shall counterfeit any Certificate from their Generall or Governor (But this in some cases is Fellony, *Stat. 39 Eliz. 17.*) And yet it hath been held that if a Sea-faring man suffering Shipwrack, or a poor Souldier or Mariner, not having wherewith to relieve himselfe

selfe in his travel homewards, and having a
 Testimoniall under the hand of some one Ju-
 stice of Peace, of, or neere the place where he
 landed, setting down therein the place where,
 and the time when he landed, and the place of
 the parties dwelling and birth, whither he is
 to pass, and a convenient time for his Passage,
 that if in this time and way they had begged,
 that they were not to be accounted Rogues ;
 But it seems the Law, at this day, is taken by
 most men to be otherwise, and that this Li-
 cence will not serve for the Souldier or Ma-
 riner (especially if he be hurt or maimed)
 for then he may and ought to be relieved with
 money by every Treasurer of the County
 where he passeth (*viz.*) a convenient summe
 of money to carry him through the same, to
 the next County. And it is thought that at
 this day, no Justice of Peace can licence
 a man to beg in any case ; Howbeit in some
 cases he may licence a man to wander, as in
 the cases before. The Justices of Peace may
 licence poor men to travell to the Baths,
 and poor Souldiers and Mariners to tra-
 vel to their place of birth, and one Justice
 of Peace may licence a Labourer in the Har-
 vest time to goe out of his own Countrey
 into another Countrey to work ; And there-
 fore if at this day a Souldier or Mariner shall
 be taken begging, or shall counterfeite a Cer-
 tificate, he is to be accounted a Rogue,
 13. A Rogue, &c. that shall goe with a gene-
 rall Passport (*viz.*) such a Passport which is
 not directed from Parish to Parish, is still to
 be accounted a Rogue, and may be puni-
 shed.

Dalt. J. P. 92.

shed, by whipping again, and so also may such a Rogue as shall carry his own Pasport without a Guide. 14. All Servants departing out of Service without a Testimoniall, &c. or which shall be taken with any counterfeit *5 Eliz. 4.* or forged Testimoniall. 15. All persons *7 Jac. 4.* that are able to labour, and thereby to relieve themselves and their Families, and shall run away, or threaten so to doe, and to leave their Families to the Parish. 16. And all persons infected of the Plague, and commanded by any of these Officers to keep in their Houses, that doe notwithstanding goe abroad amongst their Neighbours. *1 Jac. 31.*

2. As touching the latter question, What *what is to be* is to be done to a Rogue? these things are *done to him.* to be knowne. 1. Every one of these Officers must doe his best endeavour to apprehend every one of these Vagabonds, Rogues, *Numb. 2.* or sturdy Beggars which shall be found and taken begging, vagarant, wandring, or misordering themselves within their Hundred, Parish, or Tything. And if any other man bring any such Person to any of these Officers, he must take hold of him. 2. After he hath apprehended any such Rogue (except it be the Rogue that doth run or threaten to run from his Family) he is to take order (with the advice of the Minister and one of the Parishioners of the Place) that he be stripped naked from the middle upwards, and that he be openly whipped untill his or her body be bloody. 3. After this whipping the party must have a Testimoniall subscribed with the hand, and sealed with the

the seal of the same officer and Minister testifying that the same person hath been punished according to this Statute, and mentioning the day and place of his other punishment, and the place whereunto such person is limited to goe, and by what time the said person is limited to pass thither at his perill, after this manner.

John a Style, a *sturdy Vagavant Begger* (of low personage, redhaired, and having the nayle of his right Thumb cloven, aged forty years, was this sixt day of Aprill An. Dom. 1650. openly whipped at W. in the County of Gloucester, for a wandring Rogue, according to the law, and is assigned to passe forthwith from Parish to Parish, by the Officers thereof, the next strait way to Sale, in the County of Essex, where (as he confesseth) he was born [or dwelled last by one whole year, and if the case be such] and he is limited to be at Sale aforesaid, within ten dayes now next ensuing at his perill. Given under the Hand and Seal of A. B. Minister of the said Parish of W. and of C. D. Constable of the said Parish.

And this Testimoniall must be Registered in a Book provided for that purpose by the same Minister, under pain of five Shillings. 4. The party must be then forthwith sent by the same Officer to the next Parish, that from thence he may be conveyed from Parish to Parish by the Officers of the same Parishes, the next straight way to the Parish where he was born, if the same may be known by the parties confession or otherwise : And if the same may not be known, then to the Parish where he or she last dwelled by the space
of

of one yeare before the time of the same punishment done, there to put him or her self to labour, or not being known where he or she last dwelt or was borne, then to the Parish where he or she last passed through without punishment, and thence to be conveyed from Officer to Officer to the house of Correction of the Limit wherein that Parish doth stand, or to the Gaol of the Countrey. And in these cases it is the duty of these Officers also, to take and convey these persons from hand to hand, each of them from his own to the next Tything accordingly: And in this time they are not to beg, but are to be provided for at the charge of the Parishes through which they are conveyed, the Officer laying out the same for the Parish. And upon this part because the execution of these Lawes is required in these Officers, for their better direction herein these things (said to be resolved by the Judges at *Westminster* soon after the making of the Statute of 39 *Eliz.* 4.) are to be observed. 1. If a Rogue say he was born at such a place, and it cannot appear that he was born elsewhere, he must be sent thither. 2. If the Husband or Wife have a house, and the Husband or Wife rogue about, they ought to be sent to the Town where the house is, and so of an Inmate. 3. The Wife and Children under seven years of age being Vagant must goe and be placed with the Husband; and if the Husband be dead, then with the Wife, where she was born or dwelt. And the Vagant Children above seven years of age must be sent to the place of their Birth: And if the

Vagaband Parents with their Children under seven years, be placed at the place of Birth of the Parents, or at the place of last dwelling (as the case shall fall out) if afterwards the Parents or either of them dye, or run away, yet the Children once settled must remain there still, and may not be sent to their place of Birth, though after they grow to the age of seven years. 4. The wife being a Vagaband Rogue, ought to be sent to the Husband, though he be but a servant in another Town. 5. The Rogue whose place of Birth or dwelling cannot be known, having Wife or Children under seven years of age; they must goe with the Husband to the place where they were last suffered wilfully to pass through without punishment, where the Children must be relieved with the work of their Parents, though their Parents be committed to the house of Correction. 5. If any of these Officers doe not their utmost endeavour to take, punish, and convey such Rogues according to the Statute, they forfeit ten shillings for every default; and if any other man shall bring any such Rogue to the Officer, and he refuse to take and punish him as aforesaid, he doth forfeit twenty shillings for every time he so doth; and if any man hinder the punishment or conveyance of Rogues after this sort, as if any man shall make rescues against any person authorized for the execution of this Statute; or any man convey Rogues by a general Passport, without conveying them from Parish to Parish, or if any Constable will not receive a Rogue when he is brought to him in the

the right way according to his pass, or if he accept him and doe not convey him to the next Officer; for every of these offences, the Offendor doth forfeit five pounds, and is to be bound to the good Behaviour: And if the Rogue be brought and delivered, or offered to the Church-Wardens or Overseers of the Poor, or either of them (to whom he is to be offered) they must accept him and look to him, or else they doe forfeit for every default herein five pound, and they are to be bound to the good behaviour; and if these Officers doe take him, it seems they may deliver him over to the Constable presently. For it seems the Rogue is to be delivered or offered to the Church-Wardens and Overseers (who are to see him relieved there) but he is to be carryed and conveyed by the Constable, and yet if the Constable will not receive him at their hands, the Church-Wardens and Overseers themselves must, at their peril, see him conveyed to the next Parish. 6. Constables are not to poss away such persons as shall come or be sent unto them, that are desperately sick, or Women with child, ready to be delivered, but are to keep such till they recover strength, for by this means many have perished; neither are they to deliver any Vagabonds or Cripples to the next Constables, after Sun-set, or to convey such, specially Cripples, by Horse or Cart upon the Lords day, upon paine of punishment. 7. If Incorrigible Rogues. any of these Rogues shall appear to be dangerous to the inferiour sort of People of the Numb. 3. place; as if he shall threaten or offer any

Ord. 11. Febr.
1647.

Conveying him
to the house of
Correction.

Private Sessi-
ons.

Numb. 4.

Search.

violence to them, or will not be reformed by this means of his Roguish kinde of life, as in case where he hath been punished and sent to his place of Birth, and doth then fall to his roguish kinde of life again, or when he shall say he was born, or last dwelt in such a place, and in truth it is not so ; - in these cases such a person is to be accounted an incorrible Rogue : So also is him that acteth as a Stage-player the second time after conviction. And it is the duty of these Officers, if any of them meet with such persons within his liberty, to carry him before some Justice of Peace, thereto be ordered by him according to the Statute. 8. If any Warrant be sent from the Justices of Peace, to any of these Officers, to convey any Rogue or other idle or disorderly person unto any house of Correction within the said Countrey, they must be carefull, at the charge of the Hundred to doe the same, under pain to forfeit for every default, what Fine (not exceeding fourty shillings) the Justices shall impose upon him that doth offend. 9. The Justices of the Peace of every Division are to keep a private Sessions twice a year, at the least, to look to the Execution of Statutes for the Houses of Correction, and for the punishment of Rogues, and they must then four or five dayes before send their Warrants to all these Officers within the Division, to require them, That they being assisted with some others sufficient men of the place, doe make priy search in one night within their Precincts, to finde out and apprehend such Rogues and idle persons, and to bring them, if they finde

finde any before the said Justices at their meeting; and this these Officers must be careful to do: accordingly. And all these Officers must appear at the said meeting, and then and there certify upon their Oaths, in writing under the hands of the Ministers of the places where they dwell, what Rogues and Vagabonds they have taken in the same search, or since the last meeting of the Justices, and whom they have punished and sent to the house of Correction, under pain to forfeit for every default whatsoever the said Justices (under 40. s.) shall assesse. 10. These Officers are to take and punish, and convey to other Officers every Rogue and Beggar that shall be brought or set on the Land here from *Ireland, Scotland, or the Isle of Man*, till he come to the next Port or Parish, in or neer where he was first landed, under pain to forfeit ten shillings for every default. 11. It is every mans duty, as well as these Officers, to cause to be apprehended such Rogues as he shall see or know to resort to his house, to beg or receive any Almes, and him or them shall carry or cause to be carryed to the next Constable, or else shall forfeit, for every offence herein, ten shillings. 12. The person that shall run from his Family, and leave it to the Parish, is to be punished as an incorrigible Rogue: and he that doth threaten so to doe, is to be sent to the house of Correction, unless he can give Sureties for the discharge of the said Parish.

1 Jac. 7.

1 Jac. 4.

SECT. 7.

*Of the Office of the High-Constables
and Petit-Constables, about Search
for, or Seizing on Persons or Goods.*

1. **T**hey may search *Ale-houses*, *Tobacco-houses*, for Tiplers and idle persons on the Lordsday, *Act. 29. April, 1650.* 2. A Fellony being newly committed, the Constable within his limits may (*ex Officio*, and without any Warrant from a Justice of Peace) and ought to search for the Fellow or the Goods. See more for this in *Sect. 2.* of this Chapter before. 3. These Officers are to search houses suspect to dress meat in the Lent, and to seize it and give it to the poor, *1 Jac. 29.* 4. These Officers are once every fifteen dayes to search and enquire the defaults of *Innes* and *Ale-houses*. 5. They may search suspect places for Nets and Dogges to take Partridges and Pheasants. 6. The High-Constable may search for Engins used for stretching of Cloth, and deface them. 7. They may search for bad Mauls. 8. If any man fly for a Fellony, the Constable of the Town may and ought to seizeon, and keep safely his Goods, because the Town is to answer for them, and it is best to be done by indenture taken by the Teste, and before the Inhabitants. So upon the apprehending of the person for
Fellony,

23 *Eliz. 10.*

7 *Jac. 11.*

39 *Eliz. 10.*

Fellony, the Officer may seize on all his Goods and Chattels, and keep them safe, letting the owner have so much of them as is for his necessary maintenance, untill his conviction, for till then the Property is not altered.

SECT. 8.

Of the Office of the High-Constable and Petit-Constable, about making and levying of Rates.

THE Justices of the Peace, or the more part of them may at their general Sessions holden after Easter, yearly (if they think meet) rate every Parish weekly at their discretion, so as noone Parish be rated above six pence, nor at lesse than one half-penny by the week, and so as the totall Rate of the County amount not to above eleven pence for every Parish within the County; the which money is to be distributed for the relief of the poor prisoners in the upper-Bench and Marshalsey, and such Hospitals and Almes-houses as are within the County, according to the discretion of the Justices, so as there be sent out of every County yearly, twenty shillings to the upper-Bench, and twenty shillings to the Marshalsey, by a quarterly payment. And this sum in every Parish is to be assessed by the agreement of the Parishioners within themselves in the making of wch rate, their best way is to follow the rule of the taxation of men for the poor

Rates for the Upper-Bench and Marshalsey.
43 Eliz. 2.
Numb. 1.

or in default thereof by the Church-Wardens and petit-Constables of the place, or the more part of them : and in default of their agreement, by the order of the Justice of Peace within the same Parish, (if there be any), or if not, of the next Justice of Peace in the next parts adjoining. And if any person of the Parish so taxed, refuse or neglect to pay the same rate, the Church-Wardens and Constables, or any of them ; or in their default, any Justice of Peace of the said limit may levy the same by distress and sale of the offenders Goods, rendering to him the overplus. And these sums taxed by the Justices on every Parish, the Church-Wardens of the Parish must collect and pay over to the High-Constable, of the Hundred quarterly, ten dayes before the end of every quarter. And if the Church-Wardens or petit-Constables, their Executors or Administrators, fail to pay this money, the Church-Wardens, their Executors or Administrators shall forfeit ten shillings. And after this the high-Constable must pay over the same at every Quarter-Sessions, to the Treasurers of the County, or any of them. And if he, his Executors or Administrators doe not so, they shall forfeit twenty shillings : And these forfeitures the Treasurers may and must levy by distress and sale of their Goods, rendering the over-plus to the party ; and when he hath recovered the money, he must imploy it to the uses aforesaid. And if any Action shall be brought against any Officer, for doing any thing by virtue of this Act, he may plead in general, That it was done by authority

Plia.

tie

rie of this Statute, without shewing any other special matter, and if it passe with the Defendant, or the Plaintiffe be nonsuit after appearance, the Defendant shall recover treble Damages.

Costs.

Two Justices of Peace may rate a Hundred for the money recovered against the same, and levied upon one man of the Hundred for a Robbery; and then these Officers of the severall places, Towns, and Parishes, may and must rateably and proportionably tax and asseesse every Inhabitant and Dweller within the same place, according to his abilitie, towards the payment of the Rate and Assessment made by the Justices. And this money so rated they must afterwards collect: And if the parties so taxed refuse to pay this Rate, these Officers may, of their own authoritie, distrain every person by his Goods and Cattels that shall refuse to pay the same, and may sell the same Goods, and retain so much of the money made thereof, as his Taxation shall come unto, and the over-plus of the money made of the same Goods, they must deliver to the person so distrained. And within ten dayes after the collection of those moneys, they must pay over the same to one of the Justices of the Peace that made the same Rate, to the use of the party robbed.

Rates for money recovered against a Hundred for a Robbery.

Numb. 2.

27 Eliz. 13.

If any person be sent to the Common Gaol of the County by any Justice or Justices of the Peace for any offence, the same Person, if he have ability and estate of his own to doe it, must bear his own and his attendants charges; and this if he refuse to defray, then such Ju-

Rates to carry an offender to Gaole.

Numb. 3.

3 Jac. 1c.

Dalt. J.P. 198.

lice

Justice or Justices of Peace that so sent him to Gaole, may by Warrant under his or their Hands and Seals give power unto any of these Officers of the place, where such person shall be dwelling, or from whence he shall be committed, or where he shall have Goods, by the appraisment of four of the honest Neighbours of the place, to sell so much of his Goods, as to discharge it, and to render him the overplus : And in case such person shall not have any Goods known within the County, whereby to make satisfaction, then that the Constables and Church-Wardens, and two or three others of the honest Neighbours of the place where the said offender shall be taken (if there be any such Officers there) or otherwise four of the principall Inhabitants of the place shall make a Rate, which being confirmed by the hand of one or more Justices of the Peace, shall binde the Inhabitants. And if any so taxed shall refuse to pay the rate, the same Justice or Justices that did commit the offender, or any other Justice of Peace neer adjoyning, may give Warrant to any of these Officers of the place to distrain his Goods there, and to sell the same. And then, and thereupon this Officer may and must take some of his Goods, and apprise them by four substantiall Neighbours, and afterwards he may sell so much thereof as to pay the same rate ; and if there be any overplus, he must deliver the same to the party taxed. It is fit this Officer should be paid his charge for the convey of Rogues, *Resol. Judges 1633. sect. 20.* But *Quere* how it shall be done, If the Officers of the Parish

agree

agree in it, the best way is to fetch it upon the rate for the Poor, or Church, by the help of Justices.

Every Parish shall be charged to pay week- *Rates for the*
 ly such a sum of Money, towards the relief of *maimed Soul-*
 Sick, Hurt, and Maimed Souldiers and Ma- *diers and Maria-*
 riners that have lost their Limbs, or disabled *ners.*
 their bodies in the publique Service, as by the *43 Eliz. 3.*
 more part of the Justices of the Peace at their *Numb. 4.*
 generall Quarter-Sessions, holden after Ea-
 ster yearly, shall be taxed, so as no Parish be
 rated above the summe of ten pence, nor under
 the sum of two pence, weekly to be paid, and
 so as the totall sum of such Taxation of all the
 Parishes in any County where there shall be
 above fifty Parishes, doe not exceed the rate
 of six pence for every Parish. The which
 sums so taxed shall be yearly assessed, by the
 agreement of the Parishioners within them-
 selves [in the making of which Rate, the best
 way is to follow the rule of Taxation for the
 Poor] or in default thereof, by petty-Consta-
 bles and Church-Wardens of the Parish, or
 the more part of them, or in default of their
 agreement, by the order of the Justice or Ju-
 stices of the Peace living within the Parish, or
 (if there be none) living in the parts next ad-
 joyning. And if the parties rated refuse to
 pay the rate, the Constables and Church war-
 dens, and every of them; or in their defaults,
 the said Justice or Justices of Peace, may
 levy it by distress and sale of the goods of the
 party, rendring to him the overplus. And
 this money the Church-Wardens and Consta-
 bles must collect, and pay to the high-Con-
 stable

stable of the Division, ten dayes before every Quarter-Sessions. And the high-Constable also, at the same Sessions, must pay over the same monies again to any one or two of the Justices of Peace, or to the Treasurer or Treasurers of the said Collection, under pain of forty shillings to be forfeited by the high-Constable for every default, and under pain of twenty shillings to be forfeited by the petty-Constable for every default of his, the same monie to be recovered by the said Treasurer, by sale of the Offenders Goods, as aforesaid, and to be employed by him to the use of the Poor, maimed Souldiers and Mariners.

Rates for the Prisoners in the Gaole.

Numb. 5.

14 Eliz. 5.

2 Jac. 25.

They are to make a Quarterly payment of all such summes of Money as are raised in every Parish, and paid to them by the Church-Wardens of the Parishes, for the relief of the poor prisoners in the Common-Gaole, under pain of five pounds. And this monie the Constables in some places doe pay to the high-Constable.

Rates for the amending of Bridges.

22 H. 8. 5.

Numb. 6.

They are to be aiding and assisting to the four Justices of Peace, appointed and authorized for the making of Taxes for the reparation of Bridges, according to the Statute of 22 H. 8. For these Justices are to make the Taxation by the assent of the Constables, or of two of the most honest Inhabitants of the Parish.

Rates for the house of Correction.

39 Eliz. 4.

Numb. 7.

The Justices of the Peace at the Quarter-Sessions may Tax the County towards the erection and maintenance of houses of Correction. And all these Officers must doe their uttermost to put the same Statutes in execution.

These

These Officers must levy such monies as *Rates for per-*
they are commanded by Warrant of Justices *sons having the*
of Peace, having taxed the same for the relief *Plague.*
of the Poor infected with the Plague) under 1 *Jac. 31.*
pain to forfeit twenty shillings for every de- *Numb. 8.*
fault to the use of the persons infected.

SECT. 9.

*Of the Office of High-Constables and
Petit-Constables about Inn-keepers,
Ale-houses, Drunkards, Tiplers, &c.*

1. **I**F an Inne-keeper, &c. refuse to receive a Traveller, when his house is not full, and having no good reason for it, this Officer may compell the Inne-keeper to receive him: But how he may compell him is doubted: For it seems all he can doe, is to cause him to be indicted at the Sessions, or to be suppressed for it.
2. If any person without lawfull licence take upon him (except it be at Fair times on y) to keep a common Ale-house or Tipling-house, or use commonly selling of Ale, Beer, Cider, or, Perry, he shall forfeit for every such offence twenty shillings, to the use of the Poor of the Place (the offence being viewed by one Justice of Peace, or confessed by the party, or proved by one witness before him :) And this forfeiture may be, or is to be levied by the Constable or Church-wardens of the place, by Warrant from a Justice of Peace, &c. And they by virtue of such a Warrant may,
and

and must by distresse take into their hands so much of the offenders Goods to pay the same. And if he pay not the money within three dayes after the distress taken, they must apprise and sell the same Goods, and keepe up the same money; and if there be any over-plus, they must render the same to the partie. And if the party shall not have Goods, &c. or shall not pay the same within six dayes after Conviction, then the Justices of Peace, &c. may commit the Offendor to any of these Officers to be openly whipped, according to the discretion of the Justices of Peace. The which these Officers (being charged herewith) must see they carefully doe; for otherwise they may be committed to Gaol by the same Justice of Peace; there to abide without Bayle or Mainprise, until they doe procure the same Offendor to be whipped, according to the Warrant of the Justice of Peace, or untill they pay fourty shillings unto the use of the Poor of the Parish. 3. If any person licyenced shall utter or sell lesse than one full Ale-quart of the best Beer or Ale for one penny, and of the small two quarts for one penny (the same being proved by one witnesse, before one Justice of Peace) shall forfeit twenty shillings. And if any person whatsoever, Townsman or Stranger, shall be and abide tipling in any such house (the same being proved by one witnesse or the parties own confession, before one Justice of Peace;) In this Case, and for this offence, the Inne-keeper, &c. owner of the house, for suffering this in his house, doth forfeit ten shillings for every such offence.

And

And the party that doth so tiple, doth forfeit for every such offence three shillings four pence, and these summes are to be levied by the Constables and Church-Wardens of the place where the offence is done, by distress and sale of the offenders Goods, upon Warrant from one Justice of Peace. And if the Inne-keeper, &c. have no goods to be distrained, he may be by the Justice of Peace committed to the Gaole, there to be kept untill he pay the monie : And if the Tippler be not able to pay his forfeiture, he is by Warrant from a Justice of Peace to be made, to sit in the Stocks four hours. And all those summes are to goe to the use of the Poor of the Parish where the offence is committed. And in cases of forfeiture by Inne-keepers, &c. for selling by unlawfull Measures, or for suffering Tipplers in their houses, if the Constables or Church-Wardens shall neglect to levy, or shall not levy the said severall forfeitures, or in default of distress shall neglect by the space of twenty dayes to certifie the same defaults of distress to the Justices of Peace ; then every such Church Warden or Constable shall forfeit for every default fourty shillings to the use of the poor of the same place, to be levied by Warrant from the Justices of Peace, to some indifferent men. And for want of distress, the same Constables and Church-Wardens may be by any Justice of Peace committed to the common Gaole, there to abide untill they pay the forfeiture. And for all these monies, so recovered by the Church-Wardens or Constables, they shall be accountable to their successors

successors and other the Parishioners in such sort as they usually be in other Church reckonings or accounts. And for the forfeitures levied by others upon the Officers, they that levy the same shall be accountable therefore. And if any man be drunk, and thereof convicted, he is to forfeit five shillings for the same, which he is to pay within a week after the conviction to the Church-wardens, to the use of the poor of the place, to be levied (on the neglect or refusall of the party to pay it) by Warrant from the Court, Judge, or Justices, before whom the same conviction was, upon the Offenders Goods. And this Warrant may be made to the Constables or Church-wardens. And if the party be not able to pay it, then he is, by Warrant from the Justice of Peace, to be set in the Stocks, and there to sit six hours. And for the second offence, he is to be bound to the good-behaviour. And all these Officers are in their oaths, incident to their Offices, to be charged to present the offences against the Statute of 1 Jac. and 4 Jac. which are for selling by unlawfull measures, tripling, or suffering tripling and drunkenness, and in cases of forfeitures for drunkenness, and for tripling against the triplers themselves, & for not making presentments, being required; If these Officers or the Church-wardens shall neglect their duties in levying the said penalties, and due correction of the Offenders as aforesaid, they shall forfeit for every default ten shillings, to the use of the Poor, to be levied, as aforesaid, by Warrant from the Justice of Peace, &c. But for drunkenness or tripling no man may be prosecuted

secured after six moneths after the offence committed : And yet for suffering tripling and selling by unlawfull Measures, the Ale-house-keeper, &c. may be punished at any time. In all these cases, and upon all these Statutes, the Officers are to take care when any Warrant is sent unto them from any Justice of Peace, Major, Bayliffe, &c. that they see it duly and carefully executed, for fear of the severall punishments aforesaid.

SECT. 10.

Of the Office of the High Constable, and Petit-Constable about May-Poles, Stage-Playes, Cloathiers, Disturbance of Ministers, Labourers and Servants ; Moneyes forfeit about High-Wayes, making Supravisors for High-Wayes ; such as have the Plague, Hedge-breakers, Maulsters, &c.

NO May-Poles may be set up, and *May-Poles* if any be, they must be forthwith *Numb. 1.* taken down by the Constables, Tythingmen, and Church-Wardens of the place under pain of five shillings a week, to be forfeited by these Officers till it be pulled down. And if any Justice of Peace send his Warrant to the Constables, or Church-
H Warden's

CHAP. 8.

Constables.

wardens of the place, to levy this money on the Offendor, he must doe it. *Ord. 9. Dec. 1646.*

Stage Playes.
Numb. 2.

2. No Stage-Playes may be acted, the Actors are to be punished as Rogues: The Spectators forfeit five shillings a time, and the money collected is forfeit. And if any Warrant come from a Justice of Peace to the Church-Wardens or Constables of the place, to levy these forfeitures, they must execute it. *Ord. 11. Febr. 1647.*

Clothiers.
7 R. 2. 9.
Eitz. J. P. 203
Numb. 3.

3. He that shall espy and prove defaults in any Cloths set to sale, against the Assize appointed for Cloths, and against the form of the Statutes, shall have the third part of every such defective Cloth for his travell, by the delivery of the Sheriffs, if they be present, or the Lords of Faires and Markets, or of the Stewards, Bayliffs, or Constables of the places where the said defective Clothes are found by Indenture made berween them: The which Indentures must be delivered yearly at the Feast of St. Michael into the Exchequer, to the intent to charge the Aulwegers and Collectors, by whom such defaults should be searched and amended. By which Statute this Officer, being required, is to take and deliver a third part of all such Clothes as are found so defective by Indenture.

Disturbance of
Ministers.
1 Mar. 3.
Numb. 4.

4. No one may purposely by word or deed [as by talking, laughing, hemming or the like] without authority, disturb a minister in his preaching of the Word, praying, or administering of the Sacraments: And if any do so, any one of the Constables or Church-Wardens

of

of the place may of his own authorry presently apprehend him and carry him to a Justice of Peace of the same County, who may (if he think it meet) commit him to safe custody; and within six dayes after, taking with him another Justice of Peace, must examine the matter, and if by proof of two witnesses they finde it true, they must commit the party to Gaole, where he is to be for three moneths.

5. Any one of these Officers may and must, in the time of Hay or Corne Harvest, upon request to him made by any man, and for the avoyding of the losse of Corn, Grain, and Hay, cause all such Artificers as he shall see meet to labour, to serve by the day, for mowing or otherwise, for the getting in of Corne or Hay abroad, according as they see them fit.

*Labourers and Servants.
§ Eliz. 4.
Numb. 5.*

And if such persons shall refuse to work as aforesaid, being thereunto required by the Officer, the Officer may put him in the Stocks by the space two dayes and one night: And this if the Officer shall neglect to doe, he shall forfeit fourty shillings. No person retained in Husbandry, or in any Arts appointed by the Statute of Labourers, made in 5 Eliz. may depart after the time of such retayner expired, out of the Town or Parish where he last served, to serve in another, unless he have a Testimoniall under the Seal of the Constable or other such Officer, and two other honest Housholders of the Town or Parish where he last served, according to this form.

*Departing without a Testimoniall,
§ Eliz. 4.
Numb. 6.*

Memorandum, That A. B. late servant of C. D. of E. in the County of G. Husbandman

(or Taylor, &c.) is licenced to depart from his said Master, and is at liberty to serve elsewhere, according to the Statute in that case made and provided. In witnesse whereof, &c. Dated the day, moneth, yeare, and place of the making thereof. The which Testimonial, the Minister of the Parish where such Master, Mistresse, or Dame doth dwell, ought to register, taking only two-pence therefore. And if any such person be admitted into any other service without shewing any such Testimonial to the Constable, or such other Officer, Curate, or Church-Wardens of the place where he shall be accepted, he shall be imprisoned untill he procure such a Testimonial; the which if he doe not within twenty one dayes, next after the first day of his imprisonment; or if he shall bring a counterfeited Testimonial, he is to be whipped as a Vagabond, and he that shall receive any such person into his service, doth forfeit five pound for every such offence.

*Moneys forfeit
for high-ways
and making Su-
pravisors for
the high-ways.
2 & 3 Ph. &
m. 8.
Numb. 7.*

6. First, The petty-Constables, &c. are to joyne with the Church-Wardens to take the Estreame of the forfeitures of offenders against the Statutes for the High-ways: And they are to call the high-Constables to account for the Moneys they have received of such offenders, and to take the same Moneys into their hands, and to bestow the same upon the reparation of the High-ways of the place. Secondly, The Constables and Church-wardens of every Parish ought yearly upon the Tuesday or Wednesday in Easter week, to call together a number of the Parishioners, and to choose two honest

men of their Parish to be Surveyors of the work for amendment of the High-ways within their Parish, leading to any Market Town; and then ought also to appoint six daies for the amendment of those ways, before Midsummer then next following, and ought also openly in the Church, the next Sunday after Easter, to give knowledge of the same six dayes upon pain of fine, making to be assessed by the Steward of the Leet: or in default thereof, by two Justices of the Peace, in open Sessions, as in their discretion shall be thought meet.

Any one of these Officers [in times and *About persons*
places of infection with the Plague] (if the *that have the*
infection be out of any City, Borough, *Plague.*
Town-Corporate, priviledged place, or *1 Jac. 31.*
Market Town) may command or appoint, *Numb. 8.*
Persons infected, or being, or dwelling in
any house infected, to keep their house, for
avoiding of further infection. And if notwithstanding such persons doe wilfully
and contemptuously disobey such direction
and appointment, offering and attempting
to break or goe abroad, and to resist, or
going abroad, and resisting such Keepers
or watchmen as are appointed to see them
kept in; it is lawfull for such Watchmen,
with violence to enforce them to keep their
houses. And if any hurt come by such enforcement to such disobedient persons, the
said Keepers, Watch-men, and other their
Assistants, shall not be impeached therefore.
And every infected person, so commanded
by any of these Officers to keep their house,

which contrary to such commandement wilfully and contemptuously goeth abroad and converseth in company, having any infectious sore upon him uncured, be commeth Fellow: But if such person have not such sore found about him, then for his said offence he is to be punished as a Vagabond, and ought to be by Stat. 36 Eliz. 4. and further to be bound to his good behaviour for a year.

2. The Constable, &c. that shall wilfully take default in levying such money as they shall be commanded to levy by the Warrant of two Justices of the Peace, upon the Statute for the relief of any Town infected with the Plague, shall forfeit for every such offence ten shillings.

Hedge-breakers.

43 Eliz. 7.

Numb. 9.

8. If a Justice of Peace send his Warrant, to any one of these Officers, for the whipping of any Person convicted before the Justice for robbing of Orchards, cutting or pulling up of Woods, Corne, or any such like trespasses; the Officer must, by himself or some other, see that the same be done accordingly; for otherwise for his neglect therein, he is to be committed to Gaole by the same Justice of Peace, and there to be kept untill he doe procure the same person to be whipt, according to the same Justice of Peace Warrant.

Maulters.

Numb. 10.

9. The Constables also of every Borough or Town, may search and survey all such Mault as shall be made or put to sale there; and if they finde any Barley-Mault made at any time (the Moneths of June, July, and August only excepted) but that the

the same shall have the space of three weeks, at the least, in the Fat, Floor, Steeping, and sufficient drying thereof. And in these three moneths, the space of seventeen dayes at the least: Or if he finde any person to put to sale any good Mault mingled with Mault not sufficiently made, or with Mault made with Mowburnt or spired Barley: Or that put to sale any Mault not sufficiently well trodden, rubbed, and fanned; whereby half a peck of dust or more may be fanned out of one Quarter thereof; then may such Constable, with the advice of one Justice of Peace of that Shire, cause the same Mault to be sold to such persons, and at such reasonable prices, under the common price of the Market, as to his discretion shall seeme fit. But some say this doth not belong to ordinary Constables; but to the head Constables of Corporations. It seems to me otherwise.

H 4. SECT.

SECT. II.

*Of the Office of High-Constable and
Petit-Constable about Recusants,
Dressing meat in Lent, Purveyors
Souldiers departing from their Com-
manders, abjured Persons, imploy-
ment of Money given to Charitable
uses, takers of Pheasants, &c. Fish,
High-wayes in Kent, Stained Horses,
Colledge of Physicians,*

Recusants.

1. **T**HE Constable and Minister of the Parish must take and enter into a Book, and certify to the next Quarter-Sessions, the names of all Recusants sent thither by order, 35 Eliz. 8. 2. These Officers if required by lawfull Warrant, must apprehend Popish Recusants excommunicate, 3 Jac. 4.

Lent.

No Butchers may kill or sell meat in Lent, under pain to forfeit it. And these Officers may seize it, and give it to the Poor: 1 Jac. 29.

Purveyors.

If any Caror, or other, shall (without lawfull bargain) take upon him to purvey, or take up any thing whatsoever of another, against his will, to the use of any great Lord, or other person, and the party grieved give notice thereof to the Constable, or such Officer of the place; In this case, and hereupon the Officer (*viz.*) the Constable or Tything-man of the place,

place, must, under pain of twenty pounds, arrest such Taker, and carry him to the next Gaole, where he is to remain without Bail or Mainprise, until he deliver the things so taken or the value thereof.

Any one of these Officers may arrest *Souldiers* arriving here, that they suspect to have been in the service of the State, & are departed from their Captains without leave, 18 Eliz. 19.

Persons abjured to goe to any Port, it seems *Persons abjured* must be conveyed by these Officers.

These Officers are to joyn with the Minister *Money given to Church-Wardens and Overseers of the Poor, charitable uses.* where money is given for the placing of poor children apprentices in the employement thereof.

These Officers may search suspect places for *Takers of Phea- setting-Dogs and Nets to take Partridges and fants, &c.* Pheasants. And the Church-Wardens may sue for and recover the forfeiture, 23 Eliz. 10.

7 Jac. 12. These Officers and the Church-Wardens *Takers of Fish.* being commanded by a Justices Warrant must levy the forfeitures upon such as take Fish with unlawfull Nets, 3 Jac. 12.

The penalties of the Statutes, for repair of *High-ways in High-ways in the Wealds of Kent, Surrey and Kent.* *Suffex,* are to be levied by these Officers, by Warrant from the Clerk of the Peace, or two Justices, one of the *Quorum*, 39 Eliz. 19.

Constables in *Cambridge shire*, and the Ile of *Stoned-Horses.* *Essex,* being desired, must measure the stone horses that goe in the Common; and must yearly drive the Common, 31 H. 8. 13. 8 Eliz. 8.

These Officers in *London*, and within seven *Colledge of Phy- miles thereof,* are to attend upon the *Col- sciens.* ledge

ledge of Physicians, being thereunto required:
14 H. 8. 5.

SECT. 12.

*Of the Duty of High Constables and
Petit Constables in attending the
Justices, setting and making of Pre-
sentment.*

THe high Constables and Petit Constables are to attend upon, aid, and assist, and execute the the Warrants of the Judges of Assise at their Assises and Gaol-delivery. And the Justices of Peace at their general and speciall Sessions, and other meetings, and there (upon Oath, and in writing, if it be required,) to make presentment unto them of such things and to such Articles as these. 1. If Hue and Cry for apprehending of Fellons, have been duly made and followed, and by whom neglected? 2. If Watch and Ward have been duly ordered and observed, and who is faulty therein? 3. If Rogues have been duly apprehended, punished, and conveyed away to their place appointed, and who is faulty therein? 4. If the Statute of Laborers be observed, as if the Rates of wages be observed, what Servants or Apprentices have put themselves off, or are put away before their term be ended, and what is become of the Servant or Apprentice? what unmarried persons of able bodies live out of Service, not having means otherwise to live then

then by their service? If they work, who sets them to work? What persons live idly and will not work, or not for reasonable wages, or spend all at the Ale-house? 5. Of such as lodge and harbour dangerous and suspicious persons for whom they will not answer. 6. If Bakers and Brewers keep due Assise of Bread and Beer: or that sell unwhollome Bread or Beer? 7. Such as sell by false weights and measures. 8. Foretallers, Regrators, Ingrotrors. 9. What Cause-ways, Bridges, and High-ways are in decay, and by whose means. 10. Millers. 11. They must also prevent the offences done contrary to the Statutes made for the repressing of Drunkennesse, and other disorders, and such Articles as these. 1. What number of Ale-houses are within their limits. 2. Which of them are licensed, and which not, and by whom? 3. Which of them licenced are, in regard of their persons and dwellings, fit to sell? 4. Who keep ill order, by keeping Gaming, harbouring Rogues and Theeves, suffer Tipling, Drunkennesse, &c. selling by unlawfull measures, measures unfitt, or less than a quart of the best, and two quarts of the small for a penny. 12. Of the defects of High-ways not enlarged, and of Ditches, Underwoods, and Bushes there to cover Thieves, within two hundred foot. And if they be charged, they must give account to all the particulars of their Office: And for any neglect or fault herein, the Justices may punish them by Indictment or otherwise, as in other like cases of neglect or contempt of them.



CHAP. IX.

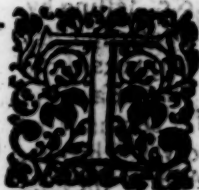
*The Power and Duty of the
High-Constable alone,
and in special; and beyond
the Power of the Petiti-
Constable.*

SECT. I.

*Against Cloathbi-
ers and their
Workmen.*

4 Ed. 4. 1.

Fitz. J. P. 203.



HHe High-Constables Office
lieth further in these things
following. The Makers of
Cloath shall pay to their
Carders, Spinners, and o-
ther Labourers, in lawfull
money, [and not in Pins,
Girdles, or such other things] for their work,
under pain to forfeit three times so much as
their wages. And they must deliver them their
Wooll by due weight: And the Carders
Spinners, Fullers, Dyers, Sheremen, and other
Labourers

Laborers shall doe their work faithfully, under paine to forfeit double damages. And the Constable of the Hundred may hear and determine the complaints of every such Cloathier and Draper, as well for not payment of the wages of the Laborers, as of the forfeiture and damages by due examination of the parties. And hereupon also, for not payment of the said Duties, Forfeitures, and for the Damages, to commit the Trespassers to the next Goale of the same County, untill the said Duties, Forfeitures, and Damages be paid. Also they may enter into any House, Land, or other place to search for any Tenters, Ropes, Rings, Head-wrines, or other Engins for stretching of Cloth, and deface them : And if the owners shall afterwards use them, these Officers may take and sell them, and give the monie to the poor.

S E C T. 2.

Of the High-Constables Office in receiving and paying of the Rates.

1. **T**He Justices of the Peace or the more part of them, at their quarter-Sessions, may rate every Parish within the Shire at such summes as they shall think fit, towards the releif of the poor Prisoners within the common Gaole of the County, so as it exceed not eight pence a week in every Parish ; and this the Church-Wardens must levy [within their Parishes] on the Sundayes, and once every

every quarter they must pay the same to the High-Constable, who must also pay over the same again at the next Quarter-Sessions of the same County, to such Collectors living near the same Gaole as the said Justices shall there appoint to receive it; the which Collectors are to distribute the same weekly, according to the said Justices appointment, under pain of forfeiture of five pounds, by every one of these Officers making default herein.

Rates for the upper-Bench and Marshalsey.

43 Eliz. 2.

2. They are to receive the monies rated by the Justices upon the County, for the relief of the poor Prisoners in the upper-Bench and Marshalsey quarterly, from the Church-Wardens of the Parishes within their Division ten dayes before the end of the quarter, and then they are at the next quarter-Sessions, to pay over the same to the Collectors appointed by the Justices under pain of twenty shillings for every default.

Rates for the maimed Souldiers.

43 Eliz. 3.

3. They are also to receive the moneys rated by the Justices of Peace on the County, for the relief of maimed Souldiers and Mariners, ten dayes before every quarter-Sessions, from the Church-Wardens and Constables of every Parish within their Division. And then the High-Constable, at the same Sessions, must pay over the same money to any one of two of the Justices of the Peace, or to the Treasurer of the County, for this purpose, under pain of fourty shillings to be forfeited for every default. But in these three last cases, it seems the High-Constables doe now usually send out their Warrants to the Perry-Constables and Church-

Church-Wardens, to require them to bring in the monies aforesaid.

S E C T. 3.

The High-Constables Power and Duty about High-ways.

E Streets indented ought to be made by *About High-*
the Clerk of the Peace, and by the Ste- *ways.*
ward of the Leet of all forfeitures arising in 2 & 3 Ph.
the Sessions of the Peace, or in the Leet, upon & M. 3.
the Statutes of High-ways; of which Estreats 5 Eliz. 13.
one part ought to be delivered yearly within
six weeks after *Michaelmas*, to the High-Con-
stable of the Hundred, wherein the defaults
were committed; and the other part to the
Constables and Church-Wardens of the Parish
wherein the defaults were, to the end that
such High-Constable may thereby levy by dis-
tress the same forfeitures, or the double there-
of if no distress can be found, or if such forfei-
tures be not paid within twenty dayes after a
lawfull demand of the same by the Officer, and
to the intent also that the said Constables and
Church-Wardens may thereby call the said
High-Constable to an account before two Ju-
stices of Peace (the one being of the *Quorum*;) *where*
for the said High-Constable is once every year,
between the first day of *March* and the last
day of *April*, to make a true account and pay-
ment of all such summs of Monty as he hath
received by means aforesaid, to the Pery-
Constables or Church-Wardens of the Place

where the offence is committed, or any two of them, under pain of fourty shillings. And this if they refuse to doe, they may be compelled unto by the Church-Wardens, by the help of any two Justices of the Peace (the one being of the *Quorum*;) And this monie is to be bestowed by the Church-Wardens on the High-ways of the Parish. And upon this account the High-Constable is to have for his pains eight pence for every pound he hath levied and paid.

S E C T. 3.

Of the Power and Duty of the High-Constable alone, about keeping petty-Sessions, Sea-banks in Northfolk, presenting of Recusants.

Keeping petty Sessions.

5 Eliz. 4.

Sea-banks in Norfolk.

29 Eliz. 24.

Making Presentment of Recusants.

3 Jac. 4.

THe High-Constables in all such Shires wherethe petty Sessions for Servants and Labourers (otherwise called Statute-Sessions) were used to be kept before 5 Eliz. may yet still hold their Sessions; so that nothing be done in them contrary to the Statute of Labourers and Servants, made 5 Eliz. 4.

The High-Constables of Hundreds there, must overlook the work for amending the Sea-banks, according to the order of the Justices of Peace at Sessions.

The high-Constable in default of the Church-Wardens and Constables of the Parish, is once a year to present at the Sessions, the names of Popish Recusants, their Children, and Servants.



CHAP. X.

Of the Office of Constables of Towns that are head Officers, and have others under them, about Weights and Measures, unlawfull Games, Coopers, Merchandise, making Mault.



Here are also in some places Constables of Towns or Parishes that are head Officers, and have others under them. And these in some Corporate Towns are part of the name of their incorporation. And in some places they have other Officers under them. And this Officer is in some Statutes called a High-Constable. And to him doe some of the things aforesaid belong in common with other Constables, as to make a Testimoniall for a
I Servant

Servant to goe into another Parish; to compell an Artificer to work in the Harveſt time; and ſome other things. And ſome other things there are, that are ſaid to belong to the Conſtable of a Town only, and to none other of the Officers aforeſaid, as the things hereafter mentioned, viz.

Weights and Measures.

8 H. 6. 5.

11 H. 7. 4.

Unlawfull Games.

13 H. 8. 9.

1. Every City, Borough, and Market Town that hath a Conſtable, ought alſo to have common meaſures ſealed, and alſo common weights ſealed, at which the Inhabitantes may freely weigh.

2. The Mayor, Sheriffs, Bayliſſs, Conſtables, and other head Officers within every City, Borough, and Town where any ſuch Officers be, ought, under pain of fourty ſhillings for every default, once every moneth at the leaſt, to make ſearch (as well within Liberties as without) in all places wherein any unlawfull Games ſhall be ſuſpected to be kept, and may arreſt and imprifon as well the keepers of ſuch places as the haunTERS to the ſame, till they be bound no more to keep and haunt ſuch places. And if any ſuch Head Officer ſhall finde, or know, that any Artificer, Crafts-man, Husband man, Apprentice, Labourer, Servant at Husbandry, Journey-man, or Servant of Artificer: Or that any Maſtiner, Fiſherman Water-man, or Serving-man, doth play at the Tables, Dice, Cards, Tennis, Bowls, Cloſh, Coyting, Logating, or other unlawfull Game out of *Chriſtmas* time, or out of their Maſters houſe or preſence in the *Chriſtmas* time, unleſs it be by the licence of ſuch Maſters as have 1 co. l. by the year, or above, and then alſo that playing

playing be within the precinct of such Masters House, Garden, or Orchard, then such head Officer may commit such Offendor to Ward, till he shall be bound by such obligation to the use of *The Keepers of the Liberty, &c.* in such sum, as to the discretion of such Officers shall be thought fit, that he shall not from thence forth use such unlawfull Game.

3 In all Cities, Boroughs, and Towns, *Coopers*, wherein no Wardens of *Coopers* be, the Ma- 23 H. 8. 4.
jors, Sheriffs, Bayliffs, Constable or other head Officers there, have power to search, view, and gage Barrells, Kilderkins, Firkins, and other Vessels to be made there, and to take such advantage thereby, and in such manner as the Wardens of *Coopers* within the City of *London*, may take on every behalf.

4. If any Woolls, or other Mercandizes *Merchandize*, be shipped to the Staple in any suspected place 14 H. 6. 5.
adjoyning to the Coast of the Water, then Indentures ought thereof to be made between the owner, and the Major or Constable of that place; or otherwise such Merchandize shall be forfeited.

5. The Constables of every Borough or *Making of*
Market Town, or other Town, may view, *Mault*.
search and survey all such Mault as shall be 27 Eliz. 14.
made or put to sale there; and if he shall finde any Barley-Mault made at any time (the Moneths of *June*, *July*, and *August* only excepted) but that the same shall have the space of three weeks (at the least,) in the *Fat*, *Floor*, *Steeping*, and such sufficient *Floor*, *Steeping*, and such sufficient drying thereof,

thereof. And in these three moneths, the space of seventeen dayes at the least. And if he finde any person to put to sale any good Mault mingled with Mault not sufficiently made, or with Mault made with Mowburnt or spired Barley: Or put to sale any Mault not sufficiently well trodden, rubbed, and fanned, whereby halfe a peck or more of dust may be fanned out of one Quarter thereof; then may such Constable, with the advise of one Justice of Peace in that Shire, cause the same Mault to be sold to such persons, and at such reasonable prices, under the common price of the Market, as to his discretion shall seem expedient.

All these things last aforesaid appertain only to the head Constable of Market and great Towns, and, as it seems, the High-Constables of Hundreds, and Petty-Constables, and Tything-men of Parishes and Tythings, have no power nor charge at all therein. And yet beware of this, for perhaps they may be otherwise taken.

It is said upon the Statute of 7 *Jac.* 3. for the imployment of money given for the binding of Apprentices. The Statute of 3 *Jac.* 12. against the destroying of Fish. The Statute of 1 *Jac.* 4. for the presenting of Recusants. The Statute of 1 *Jac.* 21. against them that are infected of the Plague. The Statute of 1 *Jac.* 29. against them that dresse meat in the Lent, and some others; that upon these Statutes Borsholders, Tything-men, head-Borows, and such like Officers being in Towns or Parishes, underneath Constables

bles that be there) have not to doe, nor may meddle, because such Constables be in comparison of them called head Officers. But where no such head Officers are, nor any Officers in the place that are called by the names of Constables, but that they are called Tything-men, Chief-Pledges, Bortholders, or by some other name there, out of doubt these Officers are intended by the word Constable within the Statutes, and they have the same authority and charge by the same Statutes as the Constables have.



CHAP. XI.

*Of Church-Wardens, and
their Office.*



Church-Wardens are Officers *Numb. 1.*
chosen yearly by the major *what they are,*
part of the Parishioners, according to the custom of the *and how they are*
place, to look to the Church *chosen.*
and Church-yard, and
things thereunto belonging. These now by the new Ordinance of the
ninth of February 1647. where they have been
used to be, are to be chosen every year on the

CHAP. II.

The Church Wardens Office.

Monday or Tuesday in the Easter week, by the major part of the parish, at a publique meeting : And they may choose one, two, three or four, as they please. And if the Parish doe omit this Election, it loseth forty shillings to the use of the Poor of the Parish. This choyce also must be allowed under the Hands and Seals of two of the next Justices of Peace. And being thus chosen, they are to continue in their Office but one year, and no longer, except their be a custome for longer time, and except they be chosen again in the same manner at the years end, otherwise they are to be changed every year. And in case of miscarriage in their Office, they are to be put out, and others chosen within the year. And albeit there be a Custome within the Parish, that the Church-wardens shall continue in their Office by the space of one year, two years, or more, (as in some places there is) yet in case of misdeamenor found in them, about the execution of their Office, the Parishioners may at any time proceed to a new election of new, and remove the old Church-wardens ; for there is no other remedy against this evill. In the choice of these Officers care must be had, as in the choice of Constables, that there be none but honest and able men chosen to the Office.

*Numb. 2.
Their Office
and duty.*

For the discovery of the Office and Duty of these Officers, these things are to be known. 1. That for some things belonging to their Office, they have a power and Office therein by the ancient Common-Law : And
for

for other things belonging to their Office, they have a power and duty therein, by certain Acts of Parliament newly made, by which their Office is enlarged. And for this last also, some things hereof doe concern the Church, and Church matters : Other things doe concern other matters. Some things also they may doe *ex Officio*, and without any Warrant from others. Other things they may doe only by Warrant from others. We shall speak first to the matter concerning the Church.

2. By the ancient Common-Law the *Numb. 3.* Office of the Church-Wardens doth lye in *providing* these things. 1. They are to see to, and *and keeping the* preserve the Goods of the Church; (*viz.*) the *Church Goods.* Books, Communion Cups, Linnen Cloathes, and other decent Ornaments and Furniture, of the Church which they doe finde there, when they enter into their Office. And if there be any lack in these things, they are to see and provide them, and being provided, preserve and keepe them also. And for this purpose (in favour of the Church) the better to enable them herein, the Law doth make them a kinde of Corporation, (*viz.*) *Corporation.* persons enabled by that name to take moveable Goods or Chattels, and to sue and to be sued at Law concerning such Goods, for the use and profit of their Parish. For the property of the Goods of the Church is in them, and they are by that name enabled to take them, and to be sued for them, for the use and profit of the Parish. And therefore these Officers may have and enjoy Goods to the use

of the Church. And a man may well, in his life time, or by his last Will, give or grant money or other movable things to the Church-wardens, or to the Parishioners of a Parish, for the Reparations of a Church, or for the buying of Books, Communion Cups, Linnen-Cloaths, or other decent Ornaments or Furniture for the Church. And this kind of Gift is so much favoured in Law, that it is not needfull therein to have any Writing or words at all. For if a man doe but buy a Bell, and hang it up in the Steeple; or make a Pew, and set it up in the Church, and doe make no words or writing hereof; by this the Bell and the Pew are so dedicated and given to the Church, that the party that did owe them, can never have them again. And if any Goods or Chattels be devised to the Church, and be kept from it, the Church-wardens may by suit recover it in a Court of Equity. But they can have no Action by the Common-Law to recover any such thing given, of the which they never had the possession: But if the Church-wardens be once possessed of any Goods or Ornaments belonging to the Church, and afterwards the same things be taken from them; they shall have the same remedy for these things, as other men have for the Goods taken from them; And therefore if such Goods be stoln, the Church-wardens may have an appeal of Robbery against the taker of them. And if they be otherwise taken away or abused, as if a Bell be broken, or the like, the Church-wardens may

*Actions by, or
Against them.*

may have an Action against him that doth it, albeit he be the Parson or Vicar himself. And in this Action they shall recover damages to the use and benefit of the Parish, and not to their own use. And yet these Officers have no such property in the Goods of the Parish, as thereby to have power to give, sell, release, hurt, or impair them; for they are Officers trusted for the behalf of the Parish, and therefore have no power in the Goods of the Parish, but for the good and profit of the Parish. And therefore if they shall so doe, or otherwise unprofitably waste or mis-employ the Goods of the Parish, the Parishioners may remove him, and choose another, although it be before his year be expired. Also it seems the party that doth steale or take away any Goods belonging to the Church, may be punished for it, as for a sacrilegious offence. And if these Church-wardens, from whom the Goods be taken, dye, or be out of their Office, their Successors (as some think) may sue for and recover them, or the damages for them: Or if these Church-wardens, may not, the old Church-wardens may sue for, and recover the same. And if any thing have been used time out of minde, to be paid towards the Church, and it be now withheld, the Church-wardens may sue for the same in a Court of Equity. But as touching any Estate of Lands, or the profits of any Lands the Church wardens are not to meddle at all; insomuch, That if the Walls, Windows, Dores of the Church be broken down, or the Trees in the Church-

Church-yard cut down, or the Grass thereof be eaten up; the Parson or Vicar, nor the Church-Wardens shall have an Action for it; for they are a Corporation only as to moveable Goods. And therefore they cannot take Estates of Lands to them, by name of Church-Wardens only, in Fee-simple, for life or years, to the use of the Church. And if a Feoffment be made of any Land to others, to the use of Parishioners. or to the use of the Church-Wardens of a Parish: this is a void use in Law, and they shall take nothing by this conveyance. 37 H. 6. 30. 11 H. 4. 12. 8 Ed. 4. 6. F. N. B. 91. 11 H. 7. 27. 12 H. 7. 10. F. N. B. 52. 54.

*Numb. 4.
In making of
Reparations.*

2. These Officers are bound by the very Common Law, to take care, and look to the Body of the Church and the Tower, that the same be sufficiently repaired, kept, and maintained; and that if any of the necessary Ornaments therein appointed for the worship of God be decayed, that they be repaired again; for there must be alwayes in a readinesse all things necessary to the preaching of the Word, and Administration of the Sacraments. And they are to see that their Bells be in case, and fit for use. But if the Chancell, (the which in most, if not in all places is to be repaired by the Parson) or any Isle in the Church, the which any man doth claim by prescription to himself, or his house in particular, be in decay, the Church-Wardens are not bound to repair this. And now by the new Ordinance of Parliament

Parliament they may raise money, not to build a new Church quire down, nor to reparaire a Cathedrall or Collegiate Church, but they may raise money to maintain or repair a Parochial Church, provide Books, Bread and Wine for the Sacrament, repair *Bread and* the inclosures of the Church-yard or bury-*wine.* ing place, and to all other things that doe belong to their Office. And further they must make such reparations as any Justice of Peace shall under his Hand and Seal appoint about any part of the Church.

3. These Officers (as it seems) by the *Numb. 5.* Common-Law are to order the Seats in the *Indisposing* Church, and to appoint every man and *of Seats.* woman where they shall sit. And yet if any man have an ale, or a seat in an ale, or by-place out of the body of the Church, unto which he may make a right by prescription, as that which time out of minde hath belonged or appertained unto his house; in this case, neither the Church-Wardens, nor any other can turn him out of it. And albeit one may not prescribe to have a seat in the body of the Church, as belonging to his house, yet if the case be so, that a man hath time out of minde had such a Seat or Seat-place in the body of a Church, as appertaining to his house; in this case the Church Wardens ought not, without very good cause, to remove him.
12 H. 7. 27.

4. These Officers also, by the very *Numb. 6.* Common-Law (to enable themselves for the *In making and* execution of their Office in the particulars *levying of* aforesaid, may set Rates and Taxes upon the Rates.
Parishioners

Parishioners for the payment of money. And as touching this point, and to shew how the Law is at this day upon the new Ordinance, these things are to be known.

1. These Officers with the Over-seers of the Poor of the Parish, or the greater part of them together, must now make these Rates; for if they be otherwise made, there is no means to recover them.
2. These Rates may be made before there be present need, as before the Church fall, or be in danger of ruine, or the like.
3. These Officers may by these Rates raise money for the buying of Books, providing of Bread and Wine, repairing of the Church-yard, or Burying place; For the *Kings Bench* and *Marysalsey*, and other payments. And so also, as it seems, for the repair of the Church, the Tower, and the Bells.
4. For this, they may rate every Inhabitant and Occupier of Lands, Tythes, Improprate Woods, or other Hereditaments within the Parish.
5. The Church-Wardens must give publique notice in the Church, when and where the Rate is to be made. Howbeit, if the Parishioners after such notice given, will not come, or coming, will not agree to the Rate; in this case the Church-Wardens and Over-seers of the Poor alone, or the major part of them, may make the Rate: But a Rate made now without giving notice thereof before hand to the Parish, is not good.
6. This Rate must be equall, and for this cause it must be upon every Parishioner, and not upon some of the Parishioners only; and it must be set upon every

*In making
Rates.*

every one of them equally, (*viz.*) according the quantity and quality of his Estate and Lands within the Parish, wherein they may rate by the Yard, Acre, or otherwise, as they think fit ; so as it be equall and according to the true value, by an equall proportion. And if one of another Parish have Lands in the Parish where the rate is made, in his own occupation ; in this case they may rate him to Church payments, according to the value of his Land. And this, albeit there be no house upon it, and albeit the Owner and Occupier dwell in another Parish ; for as to this purpose he shall be called a Parishioner, and therefore he may, *Parishioner.* if he please, come unto and frequent the Church of that Parish, as he doth the Church of the Parish wherein he lives. And where the Land-lord and Tenant both doe live out of the Parish, it seems, the Church-Wardens may rate either of them at their election. And yet some hold, That in these and such like cases, the rate must be alwayes set upon the Occupier of the Land, and not upon the Land-lord. And if the Farmer or Occupier of the Land doe live within the Parish where the Rate is made, there he only, and not the Land-lord, shall be rated ; and the Tenant is to be rated for the whole value of the Land ; and therefore the Land-lord is not to be rated again for the Rent he doth receive out of the Land, for then the Land would be twice rated ; and in this case there is a Parishioner and Inhabitant chargeable. And receipt of Rent out of a Parish
for

for Land within the Parish, by a man that lives in another Parish, will not make him a Parishioner. But if he have Land in the Parish in his own occupation ; there he may be rated with this difference, he may be rated towards the repair of the Church only. For as to the repaire of the Seats of the Church, providing of Church Ornaments, Sexcons wages, and the like, he shall not be charged therewith, *Brownl. 2. part 10.* And yet, in case whete the Land-lord and Tenant both live within the Parish where the rate is made, there the Raters may set the Rate upon which of them they please ; yet so as they be not both rated for the same thing : but a man that doth neither dwell within the Parish, nor hath any Land within the Parish, cannot be rated at all toward the Church payments. And therefore, if a Butcher come thither, it being a Market Town, to sell meat, and have a fixed stall there ; this will not make him a Parishioner, nor chargeable to the Church.

7. After the rate is thus made by the Church-Wardens and Over-seers of the Poor, it must be put in writing ; and the Hands of the Church-Wardens and Over-seers of the Poor, and of the Parishioners that are agreeing to it, it will be good to have annexed to it. But this is not necessary ; for a Rate may be good without any Hands subscribed, if it be duly made 8. The Rate thus made by them, must be confirmed by the two next Justices of Peace. 9. If any one refuse to pay them, being thus made, upon demand, the present or sublequent Church-Wardens, may

Numb. 7.

may by Warrant under the Hands and Seals of the two next Justices of Peace, levy them, and all the arrears thereof; and two shillings six pence for the neglect upon the Goods of the party appointed to pay it. 10. If any be *Over-Rate.* grieved with the Rate, relief is to be had before the Justices of the Peace, at their Quarter Sessions. Or if the Rate be made by practise and conspiracy to oppress a man, as for Alimony, or to pay a debt, and in cases where the Church-Wardens or Overseers have no Power, there perhaps they may make themselves liable to an Action of the Case or Action of Trespass.

5. These Officers are to relieve, and dispose of the Rents of Lands or Annuities, given towards repair of Churches and Church Duties, according to the intent of the Donor.

6. The next thing these Officers by the *Numb. 8.* Common-Law, are bound to doe, is, When *In delivering o-* they are going out of their Office, they are *ver the church* truly to deliver up to the Parishioners *Goods, and ma-* whatsoever Money or other things of right, *king an Accompt* belonging to the Church or Parish, they have in their hands; and it is the best way to deliver them by bill indented to the succeeding Church-Wardens.

7. The last thing these Officers are bound by the Common Law to doe, is, To give up a true and perfect Accompt of all their Receipts and Disbursements in the time of their Office: The which it is best to doe to the succeeding Church-Wardens. And this if these Officers refuse to doe, their succeeding Church-

Church-wardens may now compell them to by an Action of Accompt at the Common Law. But now by the new Ordinance, they are bound within four dayes of their Office ended, and new Church-Wardens chosen, to give an Accompt to their Successors and the two next Justices of Peace, and to pay over the Money in their hands, to their Successors. And refusing this they are to be committed without Baile, till they doe Accompt, and pay the Moneys in their hands. And by this Writ of Accompt, at the Common Law, the present Church-Wardens may compell their Predecessors to give an accompt of, and to answer for their doings, during the time of their Office: And if they have done the Parish any wrong, to make amends and satisfaction for the same, to the use of the Parish, for the harm it hath received by their default. And in this accompt, the old Officers shall have allowances for all the needfull summes of Money laid out, or spent by them, either upon the Reparations of the Body of the Church, Tower, or Bells; or for relief of the Prisoners in the Gaole, or otherwise, where the Law doth enjoin them to pay or disburse them.

Allowances.

And now having dispatcht the Duty and Power of these Officers, commanded, and given to them, especially by the ancient Common Law; we come to see wherein their Office is enlarged by some Acts of Parliament: And this we shall finde to be in these particulars following.

First,

First, We have shewed before, how by *Numb. 9.*
the late Ordinance of Parliament, these Of- *In making and*
ficers may without Warrant, *ex Officio*, make *levying of Rates*
and set Rates; and that by Warrant under *and Forfeitures;*
the Seals and Hands of two Justices of *&c.*
Peace, they may levy the same, and the a-
rears thereof, and two shillings six pence,
by distresse and sale of Goods. And that
they may, and must also, execute the War-
rants of the Justices of Peace, in levying all
the penalties appointed for any offence with-
in that Ordinance of Parliament; and also,
in levying all such money as shall be remain-
ing in the hands of any their Predecessors up-
on their Accompt, by distresse and sale of
Goods.

Secondly, These Officers are to joyn with *Numb. 10.*
the Over-seers of the Poor, and some others, *In employment*
in the employment of money given for the *of money given*
binding of Apprentices, upon the Statute of *to charitable*
7 Jac. 3. *uses.*

Thirdly, Any one of these Officers may *Against Pro-*
upon sight and knowledge of any offence done *phaners of the*
against any Law made for the observation of *Lords day.*
the Lords day, dayes of Humiliation or Thank-
giving, doe the same execution as Over-seers
of the Poor may doe.

Fourthly, These Officers, together with *Against May-*
the Constable, may take down a May-pole: *poles.*
And either of these Officers, by Warrant
from a Justice of Peace, must levy the for-
feiture appointed to be paid, for the setting
and keeping up of a May-pole. *Ord. April 6.*

1647. *Against Staged*
Fifthly, These Officers alone may levy *playes.*
the

the forfeiture appointed to be paid by such as are present at Stage-plays. And these Officers, and the Constables together may levy all the Money collected of the Commers to it, to the use of the Poor; *Ord. Feb. 11. 1647.*

Against superstitious Reliques.

Sixthly, They must, being commanded by any Justice of Peace, take care with the Over-seers of the Poor, to take down and demolish all superstitious Reliques at their charge. And the Church-Wardens being required by the Justice of Peace, must repair it as before, at the Parish charge. *Ord. May, 1647.*

*Numb. II.
Against
Sweaters.*

Seventhly, These Officers may apprehend Swearers, and bring them to a Justice of Peace to be punished, as over-seers of the Poor may doe.

*Against him
that disturbeth
a Minister or
abuseth the
Sacrament.*

Eighthly, If any of his own authority shall willingly, and of purpose, by open and overt word or deed, maliciously or contemptuously molest, or by any other unlawful wayes, disquiet or abuse any Preacher, lawfully authorised in his Preaching or Divine Service, or otherwise contemptuously, or of his own Authority abuse, deface, or otherwise unreverently handle, or order the Sacrament of the body and blood of Christ, in any Church or Chappell: Such persons, their Ayders and Abettors, may immediately after the thing done, be forthwith arrested by the Constable, these Officers, or any other person then present, and carryed to a Justice of Peace, to be proceeded against according to the Statute, *Stat. 1 M. Chap. 6.*

Ninthly,

The Church-Wardens Office.

CHAP. II.

Ninethly, If any one doe without lawfull *Against them*
licence, eat any Flesh upon any dayes, now *that eat Meat*
observed for Fish dayes [the which (as it *on Fasting-*
seems) are Fridayes and Saturdayes in every *dayes.*
week in the year, but in *Christmas* and *Easter*
week, and the four Wednesdayes in the
four *Ember weeks*] he doth forfeit twenty
shillings for every time, and one Moneths
imprisonment without Bail or Mainprife.
And every person in whose house the same
shall be eaten, knowing thereof, and not
disclosing it to some Officer that hath power
to punish it, shall forfeit for every such
offence thirteen shillings four pence ; and
one third part thereof is to goe to the Poor of
the Parish where the Offence is done, to
be levyed by the Church-Wardens of the
place, by Warrant from the Justices of
Peace, &c. So that by this Statute, If any
such Warrant be directed to these Officers,
they are to execute the same. *Stat. 5 Eliz.*
5. 27 Eliz. 11. 34 Eliz. Chap. 7. And
the Licence to be given for eating of Flesh
to any person for notorious sicknesse, by the
Minister of the Place, must be registred (if
the Sicknesse continue above eight dayes
after the Licence granted) in the Church
Booke. And this must be done by the
knowledge of one of the Church-Wardens
there.

Tenthly, These Officers are to joyn with *Numbers,*
the Overseers of the Poor, in the execu- *About the*
tion of their Office throughout ; for they *Poor,*
have an equall Authority and Charge with
them in the execution of the whole
Office

CHAPTER II.

The Church-Wardens Office.

Office; nay these in truth are the principall Officers in this Office, and the Over-seers are but Assistants to them; For so are the words of the Law, that they shall be joyned with the Church-Wardens, &c.

About killing of Hares, Pheasants, &c.

Eleventhly, If any forfeiture be by any offence, about killing Hares, Pheasants, or Partidges, and the Justices of Peace force the payment thereof to these Officers, they are to receive the money, and see it imployed to the use of the Poor of the Parish. Stat. 1 Jac. Chap. 27.

In levying money upon Rates, for the Prisoners in the Kings-Bench and Marshalsey.

Twelfthly, These Officers are to joyn with the Constables of the place, to rate the whole Parish towards the payment of the County Rate of the Justices of Peace, for the relief of the Prisoners in the Kings Bench, and Marshalsey. And being rated, to pay the same to the High Constable of the Hundred, once every Quarter, under pain to forfeit ten shillings for every default. 43 Eliz.

For Mariners and maimed Souldiers.

Thirteenthly, They are also to joyn with the Constables, to rate the whole Parish towards the payment of the Justices Rate, for the County; for the relief of the poor Mariners, and Maimed Souldiers. And to collect and pay the same to the High Constable, ten dayes before every quarter Sessions: under pain to forfeit twenty shillings for every default. 43 Eliz.

For the Prisoners in the Gaol.

Fourteenthly, These Officers alone are to rate and levy the County Rate, made by the Justices, for the relief of the Prisoners in the common Gaole, and to pay the same quarterly to the High Constable of the same Hundred,

Hundred, under pain of five pounds; and this money, if the Church-wardens doe pay before they doe collect it, it shall be allowed them again upon their accompt.

Fifteenthly, Where an Offender that is committed to Prison, hath not Goods sufficient to defray the charges of conducting him thither, The Constables and Church-wardens, and two or three of the Parishioners may make an indifferent Rate for the same. And any one of these Officers, by Warrant from the Justice of Peace, that did commit the Offendor, may levy the same Rate on the Parishioners Goods.

Sixteenthly, These Officers are, upon a Warrant sent to them from any that have power, to levy the forfeitures for the breach of any of the Laws, touching Drunkards and Drunkennels : And they are then also to see that they doe imploy the same, to the use of the Poor of the place.

Seventeenthly, These Officers are to joyn with the Constables, to execute Warrants for the levying of the forfeitures, against them that destroy Fish, &c.

Eighteenthly, They are also to joyn with the Constables in the choosing of Supervisors for the High-ways; and in the setting down of dayes for the work; and in the oversight of the High-Constables Accompt, for the moneys they doe receive by any forfeiture. They may also with the help of two Justices of Peace, High-Constables that have received any money forfeited for defaults of High-

To carry a Prisoner to Gaol.

Against Drunkards.

Against them that destroy Fish.

To chosse Supervisors of the High-ways.

Force High-Constable to Accompt.

CHAP. II.**The Church-Wardens Office.**

wayes, to accompt for it; and pay in what is in their hands, to be imployed about the high-wayes.

About a Rogue. Nineteenthly, If a Rogue be brought and tendred to these Officers, they must receive him, or else they forfeit five pounds, *Stat. 39 Eliz.*

About Presentment. Twentiethly, 1. These Officers, being required, must attend the Justices of Peace, and with the Oversees of the Poor, give to the Justices an Aecompt of what Stock of money hath been raised by Rates, or is otherwise settled amongst them, and how they are imployed; and what Apprentices are placed, or fit to be placed; and of the rest of the things concerning their Office. 2. They must also present upon their Oaths all offences that are done within their Parish, against the Statutes made for the suppressing of Drunkenness, and other disorders of Ale-houses. 3. They are to joyn with the Constable in presenting of Popish Recusants.

CHAP.



CHAP. XII.

Of the Overseers of the Poor, and their Office.



He Overseers of the Poor, *Numb. 1.*
are certain Officers ap- *what they are,*
pointed yearly to be *and how they*
joyned and assistant to *are chosen.*
the Church-wardens of
the Parish in the over-
sight and ordering of the
Poor of the Parish. And
they are to be chosen and made by two or more
of the Justices of Peace of the County (where-
of one of them must be of the *Quorum*) dwel-
ling in or neer the Parish or Division, &c. who
are yearly, under their Hands and Seals, at
Easter, or within a moneth after, to appoint
four, three, or two substantial Housholders
(according to the greatness of the Parish) to
be joyned with the Church-wardens of the
Parish: And all these together, are to look
to the Poor of the Parish. *Stat. 43 Eliz. chap. 2. 3.*
1 Jac. chap. 25. 3 Car. 1.

CHAP. 12.

The Over-seers of the Poor.

Numb. 2.
Their Office
and Duty.

For the discovery of the Power and Duty of these Officers, these things are to be known. 1. Some things they are to doe in their Office, they are to doe it, and may doe it *ex Officio*, without any Warrant from any other, And some things they may doe only by Warrant from others: And some of these things concern the Poor; And some of them doe concern other matters. As to the first of these, we are to know these things. 1. That in this Office, the Church-wardens of the place have an equall authority and charge with the Over-seers of the Poor; and therefore, howsoever it be the common course in most places for the Church-wardens to neglect it altogether, and not to meddle at all with it; yet it is a common neglect punishable upon the Church-wardens, and fit to be redressed. But if there be but one Church-warden within the Parish, this doth suffice; and the Over-seers of the Poor, and this Church-warden together, may execute the Office well enough. 2. The major part of them, without the rest, may doe any thing belonging to their Office. 3. They must have the consent of two Justice of the Peace (one of which must be of the *Quorum*) either in general or in particular, to every thing they doe in their Office: And yet, it seems, they may set up and use a Trade, by the consent of one Justice of Peace, where there are not two Justices within the limits; Nor is this consent otherwise necessary, then as herein is after set forth.

Numb. 3.]

4. The Office of these men lyeth in these things

things. 1. In general : They are to take *In setting the*
order with the consent of two Justices of Peace, *Poor on work.*
(one of the *Quorum*) to set their Poor on work,
and if need be, for that purpose, to set up a
Trade, place out their Apprentices, relieve
the impotent, and such as cannot work, or
cannot live by their work. But more parti-
cularly 2. They, with the consent of two
or more Justices, may set up and use any
Trade, only for the setting on work and relief
of the Poor of their own Parish, without breach
of any Statute. 3. They are to set to work the
Children of such, whose Parents shall not,
by them, be thought able to keep and main-
tain their Children, and such persons, married
and unmarried, as, having no means to main-
tain themselves, use no ordinary and daily
Trade of life to get their living by, all those
that cannot get work elsewhere : And if any
person so appointed by them to work, shall
refuse so to doe, or any others that are able,
if they refuse to work for the wages
assessed, he may be sent by any Justice of
Peace to the common Gaole, or house of
Correction; nor to their place of birth, or last
dwelling.

2. The more part of them, with the con- *Numb. 4.*
sent of the Justices as aforesaid, may and *In binding*
ought to binde forth and place to be Appren- *Apprentices,*
tices, the Children of such, whose Parents
they judge unable to maintain their Chil-
dren; But they may not binde any other
mens Children so : And they unto whom
they are so bound, may, and must receive
them, and keep them as Apprentices, in
which

which particular, these things are to be known. 1. Two Justices must be agreeing to what they doe herein. 2. So they doe binde them to Weavers, Malons, or any such like Trade; or they may binde them to Husbandry or Housewifery. 3. It is said they may binde any above seven, and under thirten yeers: And the Man-childe may be bound until he be of the age of twenty four years; and the Woman-Childe until she come to the age of one and twenty years, or be married. 4. These Officers may, with the Justice of Peace, help to compell any man within the Parish, that they think fit, to take such a poor Childe to be his Apprentice, and that without any money at all, howbeit in this case it is meet that some respect be had; For if the Childe be young, and the party to whom they would place it be not very able, they may give him money if they will; for it is fit that some money be given, as the Overseers and the party can agree. And if they cannot agree, as the next Justice of Peace, or the Justices of Peace at the Sessions shall set down. And this hath been the Resolution of the Judges. 5. All men that have, or may have use for Servants, are bound to receive such Apprentices themselves, or contribute towards the placing of them with others. And albeit a man be not a Trades-man, but a Knight, Gentleman, Clergy-man, or Yeoman; and albeit he doe not keep house, but be a Sojourner, if he use Husbandry, Clothing, Grasing, or the like: or howsoever his case be, if by his Calling and Profession, he must entertain and use Ser-

vants

vants of like quality; he may be compelled
 to take such an Apprentice. Resolved by the
 Judges. 6. If a wealthy man live so private-
 ly that he keep few or no Servants, and lead-
 eth such a life that he hath no need of such a
 servant, yet he may be compelled to take
 such an Apprentice himself, or to give money
 towards the placing him with some other. And
 this notwithstanding, they must bear their
 ordinary Rates to the Poor, as other men doe. *Rates,*
 Resolved by the Judges. 7. If there be
 not Masters enough within the same Parish,
 to entertain the poor Children there, the
 Justices of Peace may compell men of other
 Parishes within the same Hundred to take
 them. And if there be not enough within the
 Hundred, the Justices of the Peace, at their
 Sessions may compell them of any other Pa-
 rishes within the County to take them. Re-
 solved by the Judges. 8. These Apprenti-
 ces may be bound to a man, either in regard
 of his ability, or in regard of his Farm. And
 in the last case it seems reasonable that he
 goe with the Farm. 9. This binding must be *Indenture.*
 by Indenture, or it is not good. 10. The In-
 dentures thus made by the Church-wardens
 and Overseers of the Poor, with the allow-
 ance of the Justices; and this binding by
 them, are as effectual to all purposes, as if
 the Children were of full age and did binde
 themselves by Indentures. 11. All such as
 are so bound, according to 43 *Eliz.* may be
 safely received as Apprentices, 12. *Car.* 4.
 If any man refuse to accept of an Apprentice
 being thus placed to him, he is by the Just-
 ces

ces of Peace, to be bound to appear at the next Sessions, or Gaole-delivery : And if he refuse so doe, he is to be sent to the Gaol, til he doe so. And if he be bound to appear at the Sessions, and doe appear, and then refuse (without a sufficient excuse to be allowed of the Justices of Peace) he is by them to be bound to the good Behaviour ; or if he refuse so to doe, to be imprisoned til he doe so ; and he may also be indicted and fined for his contempt. Resolved by the Judges. 13. If a special Rate be set on any man to help place a poor Child Apprentice, it may be levyed upon his Goods as other Rates are levyed. Resolved by the Judges. 14. If the Parents of such poor Children, refuse to let their Children goe to be Apprentices, or entice them away, being bound ; the Parents themselves may be sent to the house of Correction.

Numb. 3.

In relieving the to give relief to, provide houses for, and to *Poor. And what help* them that are poor, and not able to *Poor they are to* live by their work : For this we must know, *relieve.*

that there are three sorts of Poor. 1. Such as are poor by impotency ; as first, the aged decrepit persons, that are past labour ; Secondly, the Infant Fatherless and Motherless, not able to work ; Thirdly, the person naturally disabled in Wit or Member ; as the Ideot, Lunatick, Blinde, Lame, &c. Fourthly, The person visited with sickness, who thereby, for the time, is impotent. All these being impotent, and not able to work, are to be found and provided for by the Overseers of necessary relief.

2. Such

The Overseers of the Poor.

CHAP. 12.

2. Such as are so by Casualty; as first, he that is casually maimed in his Calling, as the Souldier, Laborer, &c. Secondly, the person that is decayed by Fire, Water, Robbery, Suretiship, &c. Thirdly, the poor man overcharged with Children. All these, and such like, having no sufficient means to maintain themselves, are to be holpen and set on work by the Overseers; and being not able to live by their work, are further in Charity to be relieved in some reasonable proportion, according to their wants.

3. The thriftless Poor; as first, the riotous and prodigall person that spendeth at play, drinking, &c. Secondly, the dissolute person, as a Strumpet, Pilferer, &c. Thirdly, the sloathfull person, that doth refuse to work, or doth wilfully spoil or imbezle his work. Fourthly, The Vagabond that will abide in no service or place. Fifthly, such as will work but for the wages taxed or usually given. And for all these latter sort, the House of Correction or Common Gaole is the fittest place; and to the House of Correction is he to be sent, and not to his place of Birth, that will not work at the wages assessed or usually given: but if they have able bodies, they are to be compelled to labour; for the Rule of Christ is, *That such as will not labor must not eat,* 2 *Thes.* 3. 10. And yet if these prove unable to work, then it seems they must have relief from the Parish as well as others.

a. They are not to take care for houses or other relief for such as are able to work,
and

and have, or may have work, nor yet for their Children, for they are by their work to maintain them also: But if such be over-burthened with Children, it will be good for the Overseers to place some of their Children Apprentices: and if these cannot have work, the Overseers must prohibit them work; for none may beg in the High-ways within or without their own Parish, nor at any mans doore without their Parish, by any licence whatsoever, nor at any mans doore within the Parish, without order of the Overseers of the Poor. 3. Nor are they to take care of such as are able to live; and therefore if any such person travel through a Parish with Children, and the Father dye and leave them; in this case the Parish is not bound, but in Charity, to relieve them. 4. Nor for such as, having nothing to live by, have able bodie, may have work, and will not work: They are not to take care to relieve Rogues, for they are to be sent away.

*Numb. 6.
In setting of
Poor, and where
they shall be
settled.*

6. They must take care for such Poor as have Parents or Grand Parents, Children or Grand-Children, able to relieve them as well as others, till they can be forced to help them. For the Justices of the Peace, at their general Sessions, may rate the Father or Grand-Father, Mother or Grand-Mother, Children or Grand-Children, being able to help relieve any poor People, and force them to pay it, if they live within the County. And yet if a Woman, having a Bastard, take a Husband, it seems he is not bound to keep the Bastard, unless he have an Estate by her.

her. And if the place be not able to relieve their Poor, two Justices, *Quorum unus*, may charge any other place within the Hundred to help : And if the Hundred be not able, the Quarter-Sessions may charge the whole County.

7. They must take care for all such as are lawfully sent to, and settled amongst them, if they prove impotent. But by the way, as to the point of settling, these Rules and Cases following, are to be known.

1. He that is a Native, Householder, Sojourner, Apprentice, or Servant within a Parish, and doth live there in Peace but three weeks or a moneth together, is said to be settled there : But he that passeth through a Town only, or is in another mans house, as an Inmate two or three dayes together ; or lyeth in an out-house or Barn, for a longer time, having no house to dwell in ; or a Childe at Nurse there ; or a Scholar at School there ; or in the place, being an Universitie ; or as a Traveller in an Inn there, is not said to be settled there by this. And therefore if any impotency happen to any such, the place shall not be charged, but they shall be sent to the place where they or their Parents are settled, or where the Children were settled. Resolved of the Judges.

2. If a person be once duely settled in a Parish, he may not be after removed, but there he must be relieved, or set on work, as his case is ; for no man is to be put out of the Town where he dwelleth, nor to be sent to his place of Birth or last habitation, but a Vagrant

vagant Rogue ; and therefore they that have Houses or Services in Parishes ; when their Estates or Services are ended , are to get new Houses or Services , and work if they be able : for in this case the Parish is not to provide for them : But if they be impotent, they must be there relieved, for they may not (in these cases) be sent to their places of births or last dwelling. And yet it is said in these Cases, if any of these persons shall be taken begging abroad out of the same Parish, that in this case such person may be sent from the place where they are taken begging, as a Vagabond to the place of his birth. Resolved of the Judges. But if he goe of his own accord into that Parish, and doe not beg there, they cannot send him back ; for none but a Rogue can be sent back to any place from whence he came. *Pasch. 7 Car. B. R. per Ch. Just.* And those young Children whose Parents are dead, are to be set a work, releved or maintained at the charge of the place where they are dwelling at the time of the death of their Parents, and are not to be sent to their place of birth, &c. For if the Parents be not Rogues, the Children cannot be Rogues till they wander and beg.

3. For further opening this matter, take these Rules. First, The Law unsettleth none who are lawfully settled. Secondly, None may be settled by practise. Thirdly, None can be said to be settled in that place where he is in no quiet, but continually interrupted by complaints to Justices of Peace, their Warrants

warrants or other disturbances of the Parishioners, or Over-seers of the Poor. Fourthly, no settlement can be made by composition and agreement. Fifthly, no settlement can be made by an illegall remove. Sixthly, nor can any settlement be by any mans being in a Parish obscurely, and in a skulking way, that the Parish cannot take notice of him.

4. For the opening and illustrating of these Rules, take these Examples and Cases.

1. If a Rogue be taken at *A.* and he will not confesse, nor can they finde the place of his birth, but he saith, that his last habitation was at *B.* whereupon he is whipped, sent to *B.* and there he confesseth the place of his birth to be at *C.* In this case, without any new vagarancy, they of *B.* may send him to *C.* Resolved of the Judges. Secondly, If one that hath a Family, take a House in a Parish for one year, and before the end of the year, he is forced out of the possession of it, and then goeth into another Parish and take part of a House, and is there as an Inmate but one, two, or three dayes, he is put out from thence; and then for want of a House lyeth in a Barn in a third Parish and there the Husband is sick, and Wife delivered of a Childe; Now in this case they shall be sent to, and settled in the first Parish, where his House is, and from whence he was lawfully removed; for none may be so forced to turn Vagarants. Resolved of the Judges. Thirdly, a Souldier maintained in the late Warrs before May, one

L

thousand

thousand six hundred fourty seven, must be settled in the place where he was settled when he took up Arms. *Ord.* May one thousand six hundred fourty seven. Fourthly, If an Apprentice or a Servant goe out of that condition, he cannot be thrust out of the place, but must continue there, and be disposed of as his case requires. And if the Master of an Apprentice dye before or within the time, his Executors or Administrators must provide for him (if they be able) otherwise, and howsoever if the Apprentice become impotent, the Parish must doe it; and so it is if he be placed by the Churchwardens. Resolved of the Judges. And if a Servant be got with Childe, and then goeth out of her Masters Service, before or after it appear she is with Childe, and the reputed Father is runne away, or poor, in this case, not the Master, but the Parish shall be charged. Resolved of the Judges. Fifthly, The Wife regularly is to goe with the Husband, albeit he be a Servant. Resolved of the Judges. And if a Husband and Wife be Roguing, and they have a house in another Parish, though as an Inmate, they may be sent thither. Resolved of the Judges. And generall Children seven years old, and vagarants, must be sent to and settled with the Father or Mother, or Mothers Husband; and if he be dead, the Mother where she was born or last dwelt the space of a year. And being thus settled, they must there remain, and not be sent away from thence to their place of birth; though after their Parents

rents die or run away, or the Children be above seven years old, or doe turn vagarant in that Town; for they must be there set on work. Resolved of the Judges. If a woman have a Bastard, and then take a Husband; it is said he is not bound to maintain this Child, unless he have a sufficient Estate by his Wife to doe it, 10 Car. So held by the Sessions in the County of Wilts. And if a Rogue, whose last place; or place of birth cannot be known, have a Wife and Children under seven years old, they must goe with the Husband to the place, through which they were last wilfully suffered to passe without punishment, where the Children are to be maintained by their Fathers work, though they be sent to the House of Correction. *Dalt. J. P. 14.* If one hire a House in *A.* or have no House in *A.* and live there with his Wife and Children, and binde himself to serve one in *B.* In this case, the Wife and Children must remain in *A.* But if he hire a House in *B.* then they must be all in *B.* And Children, whose Parents are dead, are not to be sent to their place of birth, &c. If they be like to be a charge; for the Parents not being Rogues, the Children cannot be Rogues unless they wander or beg; in this case therefore they must be maintained at the charge of the Parish where the Father dyed. But if a Travelling woman that hath a Child sucking on her, be sent to Gaol and then hanged for Felony, the Child shall not be charged on the Parish where she is hanged; but it shall be sent to and settled

in the place where she was born, if it can be found, otherwise to the place where she was taken.

The Bastard Childe, the Mother, or reputed Father, being not able to maintain it, must be with the Mother so long as it is in the condition of a nursing Childe, and then it must be sent to the place of its birth; And if one be delivered of a Bastard Childe in one Parish, and after the Mother goe into another Parish with it, or become vagrant, so that she is sent to the place of her birth: the Childe being under seven years of age, is to be sent to the place of his birth, and not settled with the Mother. Resolved of the Judges.

If a Woman settled in a Service, hap to be with Childe, which is like to be a charge, the reputed Father being gone or poor, the Parish where she is must be charged; but if she be in another Parish and settled, there she must continue. Resolved of the Judges. And therefore if a Woman unmartied be hired Weekly, Halfe yearly, or Yearly, in one Parish, and there is begotten with Childe; and then goeth into another Parish, where she is settled in service or otherwise, two or three moneths; and then she appears to be with Childe, and it is like to be charge to the Parish, the reputed Father being gone or poor; in this case she is to be settled in the Parish where she is not, where she was begot with Childe. Resolved of the Judges. And if such a Servant be got with Childe, and then go or be legally put out of her Masters

Masters service, the Parish not the Master must be charged with it. Resolved of the Judges. So if a Servant be with Childe when she is retained, and for this she is afterwards by a Justice of Peace discharged of the service within the time, or she be with Child, and her time be expired, and she not able; the Parish, not the Master, shall be charged herewith. Resolved of the Judges.

4. The Justices of the Peace in their Quarter-Sessions, if any question be about these things, doe settle it according to these Rules.

5. Such as doe remove any contrary to these Rules, may be fined, and if any be sent to any place against these Rules, they are to be sent back again to the place from whence they came. *Stat. 43 Eliz.*

These Officers must provide houses as well as victuals for their Poor, and therefore they may by order of the Quarter-Sessions, and leave of the Lord of the Manor, first had in writing under his Hand and Seal, build any house for the impotent Poor of the Parish in any waste part of the Manor, and they may place more Families than one therein, as In-mates, without any danger: but then this house must not be afterwards converted into any other use, for so it may become a Cottage afterwards.

They are to doe their work by and with *Numb. 6.* the money raised by the Rates; also with the money that comes to them by the forfeitures of Delinquents upon the Statutes against Alehouse-keepers and Tiplers, sale of

*Numb. 7.
In making of
Rates.*

Tenters, default of Clothiers; the Flesh in Lent in a Victualling house, for taking Partridges, profaning the Sabbath or Gods Name; and such as offend against the Statute made for the Poor, and against Rogues.

The next main thing wherein the duty of these Officers doth lie, is in making of Rates. For to this purpose, it is provided, that the Church-wardens and Over-seers of the Poor, or the greater part of them, with the assent of two Justices of the Peace, may raise weekly or otherwise (by Taxation of every Inhabitant, Parson, Vicar, and other, and of every Occupier of Lands, Houses, Tythes impropriate, or appropriation of Tythes, Coal-mines, or saleable Under-woods in the said Parish, in such competent sum and sums of money as they shall think fit) a convenient Stock of Flax, Hemp, Wooll, Thread, Iron, and other necessary Stuff, to set the Poor on work; and also competent summes of money, for, and towards the necessary relief of the Lame, Impotent, Old, Blinde, and such other among them being poor and not able to work: And also for the putting out of the Children of poor Persons to be Apprentices: And also for the setting up of houses for the Poor, to be gathered out of the same Parish, according to the ability of the same Parish, and they may execute all other things, as well for the disposing of the said Stock, or otherwise concerning the premisses, as to them shall seem convenient. For the better understanding of which branch of the Statute of 43 *Eliz.* and discovery

discovery of the Law, concerning Rates in general, these things must be known.

1. That when Officers are to make any Rates, they shall doe well the first of all to give publique notice in the Church of the time and place when and where they intend to make the same (for this in the case of Church Rates is necessary,) and then if the Parishioners will meet they may, if not, the Officers and those that doe meet, may make the Rate.

2. The Rates must not be extended beyond the Parish, neither may the Over-seers rate other Parishes towards the Rates of the poor of their Parish. For in *Hill. Term 10 Car. inter Nichols and Walker*, was this case in the *Kings Bench*. *Totridge* was time out of minde, within the Parish and parcel of the Parish of *Hatfield*, in the County of *Hertsford*; and the Parson of *Hatfield*, had time out of minde, had all the Tyches out of *Totridge*, as within the Parish of *Hatfield*, and had alwayes placed Curates there to say divine service in the Chapel of *Totridge*; and that for sixty years before *Totridge* was reputed a Parish of it self, and during that time, had parochiall Officers; and that of late the Over-seers of the Poor for the Parish of *Hatfield*, had taxed the Plaintiffe *Nichols* (being an Inhabitant of *Totridge*) to pay to the Poor of *Hatfield*, which tax was confirmed by the Justice; and the money being unpaid, the Defendant *Walker*, being an Over-seer by warrant from the Justices of Peace, distrained the Plaintiffs Goods; and for this taking of his Goods, *Nichols* brought an Action against *Walker*; and

in this case it was adjudged for the Plaintiff, and resolved by the Judges, that *Totridge* being but a Parish in reputation only, should not be liable to the Taxation made by the Over-seers of the Poor of *Hatfield*. 3. Every man must be rated for his Land to all Rates according to the quality and yearly value, and not according to the quantity thereof. And so was the opinion of the Lord chief Justice, and Baron *Denham* at an Assises in *Sarum*. 8 Car. 4. He that doth occupy Land in his own hands, lying in severall Parishes, must be charged in every Parish for his Land there, only proportionable and no more. 5. The Farmer is to be rated for the Lands he hath in Lease, nor the Lessor. 6. The Lord or Lessor shall not be charged for the Rent issuing out of the Land, because the Tenant is chargeable for the whole Land. 7. If there be some other Lands within the Parish that be ancient Demesne, and some that be Guildable, it seems they must be all rated, and so also of Copyhold Lands. 8. Impropriations (by the very Letter of the Statute) are to be rated to the Poor as well as other Lands. And in the rating of them, it seems reasonable, that where they have the Tenth of the whole Parish, they bear the Tenth of the charge of the Rate to the Poor. And so hath it been of late resolved by the Judges. 9. Saleable Underwoods (by the expresse Letter of the Statute) are rateable, and by these are intended generally, all Woods for Fire-wood, albeit they be not cut in thirty or forty years

years (as the Beech-wood of many Countreies is used to be cut) for it seems there is no wood to be exempted from this Rate but Timber-wood only : Also Coal-mines are chargeable to this Rate, and for these things they must be proportioned to a yearly benefit. So that if a man have an hundred Acres of Wood within the Parish, it must be considered what wood he may sell, and what benefit he may make thereof yearly, to the Worlds end ; and according to the same the Rate must be made : And for Coal-mines, it must be considered what benefit a man doth make by them, and according to the same he must be rated.

20. Parsons, Vicars, and such like persons (as Inhabitants) within the intent of this Statute, are to be rated towards the relief of the Poor as well as other men ; and so hath it been resolved of late by the Judges.

11. Any man that dwelleth within the Parish, albeit he have no Land within the Parish, may be rated towards the relief of the Poor of the Parish. And so hath it been also resolved by the Judges.

12. In some cases a man may be taxed for his Goods, as well as for his Lands ; and in case of a Rate for the Poor, men may be taxed for their visible Estate of Goods, viz. their Oxen, Kine, Sheep, &c. as well as for their Lands and not only for those Goods that are within the same Parish, where a man doth dwell, but also for those Goods which he hath in any other place : for a man shall not be rated for his Goods in any place, but in

in the place where he doth dwell. Nay it is held in this case of rating for the poor, some respect may be had to mens invisible Estate of money; for the case may be so, that the Raters may know a man within the Parish that hath no other Estate, and yet perhaps hath an annuity of one hundred pounds by the year, or hath hundreds of thousands of pounds of money owing to him; and in such a clear and certain case, they may no doubt rate him according to that value. 13. In some speciall case a man may be rated beyond his ability: For if a Parishioner for his own gain, or otherwise, shall bring into the Parish, without the consent thereof, a Stranger who is, or is apparently like to be burthensome to the Parish; in this case the Parishioners (because they have no other remedy against him) may rate him, not only according to his ability of Lands and Goods, but according to the damage he bringeth, or is like to bring to the Parish by his folly: For if any person shall finde himself griev'd with any such rate to the Poor, or other such like act done by the Over-seers of the Poor, or the Justices of the Peace, he hath no other remedy but to complain to the Justices of the Peace at the Quarter-Sessions, where (the case appearing to be as aforesaid) he shall have a little relief. 14. If any man refuse to pay his Rates for the Poor, the present or subsequent Over-seers of the Poor shall have a Warrant from the Justices of the Peace to levy the same of the parties Goods; and thereupon they may and must sell the parties Goods, and pay themselves

selves their Rate, and give the party the over plus of the money, if there be any; and if he have no Goods, then to carry him to Gaol, there to abide untill he doe pay it. It seems to me, that for relief of the Poor that they have not places for, in case of necessity, that they may rate the Parish to build a house, and to buy a piece of ground in some of the Parishioners names to set it upon: For it is in their discretion which way to provide. And if they over-rate any man to these ends, they cannot be sued by the party grieved: But if there be any conspiracy in the case, to oppress a man, or he be rated to pay debts, or for Alimonie, or for any other purpose by these Officers, an Action will lye against them.

These Officers, with the Church-wardens, the Parson or Vicar, and the Constables of the place, or the most part of them (where any money is, or shall be given, to be continually employed for the binding out, as Apprentices, the poorest sorts of Children) shall within the same places, have the nomination and placing of such Apprentices, and the guiding and employment of such moneys as have been heretofore so given, or which hereafter shall be so given to and for the continually binding forth of such and so many Apprentices; and in such sort as is already, or shall hereafter be so given and appointed, either by the last Will or any Writing under the Hand and Seal of the givers of such monies. And if any of them wilfully forbear or refuse, according to their duties, to employ such monies, by means whereof, the said money shall not be employ-
ed

ed accordingly, then every of them so offending, shall forfeit three pounds for every such offence. And the Master, Mistress, or Dame of such Apprentices shall be bound with one or two sufficient Sureties, in double the summe they have received with such Apprentices, to such persons as aforesaid, appointed to dispose the same moneys, to repay the money so received at seven years end, or within three moneths next after the same seven years ended. And if the Apprentice, Master, &c. happen to die within the said seven years, then within one year next after such death. And these Officers and the rest ought to put forth and employ such monies within three moneths at the farthest, after the same shall come to their hands. And if there shall not be found fit persons to be bound out Apprentices in the Towns and Parishes where such moneys are or shall be given, to be employed as aforesaid, the poorest Children of any of the Parishes next adjoyning may (by the discretion of the said Parson, Vicar, &c.) be bound Apprentices, taking such Bonds as are before mentioned. And choice must be alwayes made of the poorest sort of Children; and that no Apprentice be above fifteen years old when he shall be first bound. And the said Parson, Vicar, &c. are once every year in Easter week, or within a moneth after Easter day to be accomprable before four, three, or two Justices of the Peace, dwelling in or next the said Towns or Parishes, for all such monies as they have

have employed in binding of Apprentices; and of all Bonds and Obligations taken for payment thereof, and of the money remaining in their hands, and are at such accompt or within ten dayes after, to deliver to their Successors, or to such as have been in their times or places, all the said Bonds and Obligations, and such monies as remain in their hands not then employed.

They must, being required by the Justices *Numb. 8.* of Peace, attend them, and with the Church-wardens, give them an accompt of these things; *In making Pre-
sentment,* what Stocks of money are in their Parish by Rates or otherwise; what Apprentices they have placed; and what they have done in all the rest of their Office.

These Officers and the Church-wardens are to meet monerthly in the Church, on Sunday after Evening Prayer (except they be let by sickness or other cause, to be allowed a good excuse by two Justices of the Peace) to consider of all these things.

They are always, within four dayes after the end of their year, and after other Over-seers named and allowed by the Justices, to give up to any two such Justices of the Peace as aforesaid, a true and perfect accompt. 1. Of all summes of money by them received or rated and not received. 2. Of all such stock of Ware or Stuff as they or any of their Poor have in their hands. 3. What Apprentices they have put out. 4. What poor they have set on work, or relieved. 5. Whether they have suffered any of their Poor to wander and beg out of their Town, or in the High-ways,

ways, or in their Town without their direction. 6. Whether they have not monethly met to consider of these things. 7. Whether they have Assessed the Inhabitants and Occupiers of Lands, &c. in their Parish, viz. all such as are of ability, and with indifferency. 8. Whether they have endeavoured to levy and gather such Assessments. 9. Whether they have been any way negligent in their Offices, in executing the Justices Warrants about any thing touching their Office.

And if any Church-warden or Over-seer shall refuse to give up his account as aforesaid, and to pay over the Arrearges due (if any be) upon the same account, unto his Successor, he may be committed to the Gaol by two Justices of the Peace, untill he doe account and pay over the same money. And if any of these Officers shall offend in any other of the particulars aforesaid, he shall forfeit for every default twenty shillings.

All those forfeitures are to goe to the use of the Poor of the Parish, and may be levied as followeth, viz. The money forfeited by the Father, Grand-father, &c. of any poor person taxed by the Justices, towards the maintenance of such poor person that will not pay that Rate, may be levied of the offenders Goods upon a Warrant from two or more Justices of Peace as aforesaid, by sale of the same Goods, rendring to the party the over-plus of the money. And if there be no distress to be had, the Justices of Peace may commit the Offendor to Prison, there to remain without Bayl,

Bayl, untill the forfeiture be paid : The money forfeited by the Church-wardens or Over-seers, for not receiving or taking care to convey a Rogue, &c. may be levied upon the offenders Goods, upon a Warrant from two or more Justices of the Peace : The money forfeited by the Church-wardens and Over-seers for offending in any of the particulars aforesaid, may be levied by the subsequent Church-wardens and Over-seers upon the offenders Goods : Also in the same manner by a Warrant from any two Justices of the Peace : And if there be no such distresse to be found, the same Justices may commit the same offenders to Gaol, untill they doe pay it. And if any man shall in any wise disturb the Execution of the Statute of 39 *Edw. 4.* he shall forfeit five pounds, and be bound to the Good-Behaviour by any two Justices of the Peace.

We have done with the Office of these Officers, so far as it concerns the Poor ; now we come to that wherein their Office lyeth about other matters ; the which is given them also by certain Acts of Parliament, and lyeth in these particulars following.

For the better understanding of the Law *Numb. 9.*
herein, these things are to be known. *Against such as*
1. This day is by every one to be sanctified *prophane the*
and kept holy, and men must be carefull *Lords day.*
herein to exercise themselves in the duties of
Piety and true Religion, publickly and privately :

vately : and every one on this day (not having a reasonable excuse) must diligently resort to some publique place, where the Service of God is exercised or must be present at some other place in the practise of some Religious duty, either Prayer, Preaching, Reading, or expounding the Scriptures, or conferring upon the same. 2. None may on this day meet out of their own Parish at any sports whatsoever; nor may they meet within their own Parish for Bear-baiting, Bull-baiting, Enterludes, or other unlawfull Exercises, under pain to forfeit three shillings four pence for every offence; to be levied by distresse and sale of Goods; and for lack of distresse to sit three hours in the Stocks. Nor may any one on this day keep, or be present at any Wrastring, Shootings, Bowlings, ringing of Bells for pleasure, Masque, Wake, Church-ales, Drinking-games, Sport or Pastime whatsoever, under pain to forfeit five shillings if he be above fourteen years old, and twelve pence by him that hath the government of him if he be under fourteen years old; to be levied by distresse and sale of Goods, or if no distresse be to be had, to sit in the Stocks three hours. 3. No Carrier may goe with his Horses, Wagoner, Carter, or Wain-man, may goe with his Cart, Wagon, or Wain; or Drover with his Cattell on this day, under pain to forfeit twenty shillings for every offence, to be levied by distresse and sale of Goods, if he be questioned within six weeks after the offence done. But there shall be but one twenty shillings forfeited for one journey, although he passe through

Carriers.

through twenty Parishes, and this twenty shillings that Parish shall have where the distresse is first taken. 4. No Butcher may *Butcher.* kill or sell any Victuals on this day, under pain to forfeit six shillings eight pence, if it be questioned within six weeks after the offence done, to be levied by distresse and sale of Goods. 5. None may Cry, shew forth, or *Tradesmen.* put to sale any Wares, Merchandizes, Fruit, Herbs, Goods, or Cattell on this day, unlesse it be in an Inne or Victualling-house; and for such as cannot otherwise be provided for, and unlesse it be the crying and selling of Milk before nine in the morning, and after four in the afternoon, from the tenth of *September* to the tenth of *March*; and for the rest of the year, before eight in the mornings, and after five in the afternoon, under pain to forfeit the thing so cryed or offered to sale. 6. None may on this day *Traveller.* without good cause, by allowance of one Justice of Peace, travell, under pain to forfeit ten shillings, nor carry any burthen, or doe any worldly labour, under pain to forfeit five shillings: Both these forfeitures to be levied by distresse and sale of Goods; and if no distresse be to be had, to sit in the Stocks three hours. 7. None may on this day or the *Drinking.* dayes of Humiliation, or Thanksgiving, use *Tippling.* Dancing, prophanely Drinking, or Tippling in any Tavern, Inne, Ale-house or Tobacco-house, nor be there, or grinde any Corn at a Mill, but upon cause to be allowed by one Justice of Peace, under pain to forfeit ten shillings a peece, he that is in the
M Inn,

*Serving of
Process.*

*Coaches,
Boats.*

Inne, and he that keeps the Inne; the Mil-
lar, and he that owes the Corne, to be levy-
ed by distresse and sale of Goods; and for
lack of distresse to be set six hours in the
Cage or Stocks. 8. No Traveller, Waggo-
ner, Burcher, Higler, Drover, or their Ser-
vants, shall come into their Inne, or lodge
on Saturday night after twelve a clock, nor
goe from thence Monday morning before one
of the clock, without necessary cause, to be
allowed by one Justice of the Peace, under
pain of forfeiture of ten shillings by the
Traveller and to be levied by distresse and
sale of Goods; and for lack of distresse, to be
set six hours in the Stocks or Cage. 9. None
may execute any Writ, Order, or Warrant on
this day, dayes of Humillation, or Thankf-
giving (but in case of Treason, Felony,
breach of the Peace; any profaning of the
day) under pain to forfeit five pounds, to
be levied by distresse and sale of Goods; and
for want of distresse, to sit six hours in the
Cage or Stocks; and the serving of the Pro-
cess is void. 10. None (but in Case allowed
by one Justice, or for Gods service) may tra-
vel with any Boat, Wherry, Lyter, Barge,
Horse, Coach, or Sedan on this day, under
pain of forfeiture of ten shillings by him
that is carried, and five shillings by him
that doth carry, to be levied by distresse and
sale of Goods; and for lack of distresse, to sit
six hours in the Cage or Stocks.

Any one of these Officers, upon their own
sight or knowledge of any offence done, by
selling, crying, or offering of Wares to sell
on

On the Lords day, as before, may seize and secure the Wares and Goods, till Justice may be done against the Offendor therein. Also any of these Officers may search for the discovery, finding out, apprehending and punishing of all the Offendors, against any of the Laws aforesaid. And all that this Officer is to doe, as it seems by this Law, is only to search; and if he finde any thing, to inform the Justice of Peace thereof: for it seems to mee he cannot doe more without a Warrant from a Justice of Peace. *Act. 9. April,* one thousand six hundred and fifty.

Every one that sweareth, is to forfeit for the first Offence as followeth. The Lord, *Numb. 18. Against Sweden- vers.* and all above him in degree, thirty shillings. The Baronet or Knight, twenty shillings. The Esquire, ten shillings. The Gentleman, six shillings eight pence. Any other man or woman, single or married, three shillings four pence, and for every Offence afterwards twice as much: And for the tenth offence, being proved by Verdict or confession, he is to be bound with Sureties to the Good-Behaviour for three years: and for lack of payment, or giving Security to pay it, and distress to levy it, if he be above twelve years old, he is to sit by the Heels in the Stocks three hours for the first Offence, and six hours for every Offence after; if under Twelve years, he is to be whipped by the Constable, or Master, or Father in his presence: three swearings after the Surety for the Good-Behaviour given, is a breach of the Bond.

CHAP. 12.

The Overseers of the Poor.

Any one of these Officers may without Warrant apprehend and cause to be apprehended, and carry or cause to be carried to a Justice of Peace, to the end he may be there punished, any one that doth swear or curse against the Law. *Act. 28. June*, one thousand six hundred and fifty.

About Superstitious Monuments.

Any one of these Officers may also take down superstitious Monuments and Pictures upon the Ordinance of *May*, one thousand six hundred fourty and four.

About Rogues.

If a Rogue be tendred and brought to any one of the said Officers, to be conveyed to any place, he is to receive him and look to him, as well as the Constable, or he may forfeit the five pound penalty appointed, by the Statute of 29 *Eliz.*

CHAP.



CHAP. XIII.

Of the Supravisors of the High-wayes, and their Office.



He Supravisors or Survey-
ors of the High-wayes, are
Officers yearly chosen by
the Constables & Church-
wardens of the Parish, to
look to the amendment of
the High-wayes within the
Parish. For the Constables

*Numb. i.
what they are,
and how they
are chosen.*

and Church-wardens of every Parish, must
yearly upon the Tuesday or Wednesday in the
Easter week, call together some of the Pari-
shioners, and then choose two honest persons
of the Parish, to be Orderers and Overseers
of the works, for the amendment of the High-
wayes of the Parish, leading to Market Towns.
But now by the new Ordinance, the choice is
to be made the first Tuesday after the twenty
fifth of *March* yearly. And the safe way is to
choose them the first, and to choose them or
approve them the second day again. The
which persons so chosen, shall have power to

order the persons and carriages appointed for the work, according to their discretion : And if either of the said persons so chosen and appointed, shall refuse to take on him and execute the said Office, he shall forfeit twenty shillings for this refusall. *Stat. 2 & 3 Phil. & Ma. c. 8. 18 Eliz. 9. 5 & 13. 29. & 5.*

*Numb. 2.
Their Office and
Duty.*

For the discovery of the duty of these Officers, and the Law in this point, these things are to be known.

1. That they have to doe with no wayes, but the publick High-wayes. And so hath it been resolved by the Judges in the Upper Bench : For the Statute is, High-wayes leading to Market Towns.

2. The Constables and the Church-Wardens of the Parish are at the time of choosing of these Officers, to name and appoint six dayes, to be before the Nativity of Saint John the Baptist, then next following, set apart for the amending of the High wayes : and they are to give notice thereof the next Sunday after in publick in the Church : And this being done, these Officers, viz. the Surveyors of the High-wayes, are to see that the same be observed, and that all the Parishioners doe their work on the same dayes in manner as followeth.

3. Every person having a Plough, Land in Tillage, or in Pasture, in the same Parish, or keeping there a Plough or a Draught, shall finde and send on every day to the place appointed, one Wain or Cart, provided after the fashion of the Country, with Oxen, &c. fit for the carriage, and with necessary Tools

Tools fit for the work, and with two able men; and then and there these men must doe such work with their Plough, &c. as they shall be appointed to doe by the Surveyors aforesaid, by the space of eight hours on every of the said dayes, under pain to forfeit for every default ten shillings. And every other Housholder, Cottager, and Laborer of the Parish (able to labor, and being no hired Servant by the year) must by himself, or some other able man, be then and there ready to work, and work every one of the said six dayes by the space of eight hours, as they shall be appointed by the said Surveyors, under pain to forfeit twelve pence for every day they shall make default herein. In the Explication of which Branch, these things are to be known.

First, That a Plough-land is not of any certain content, but ordinarily so much as one Plough may plough in one year; which in some Countries is more, in some lesse, according to the heaviness of the soyl. *Cok.* 4.37.
§ 9. 124.

Secondly, That so many Ploughs as men usually have, and use in the Summer about their own businesse, so many they are to bring with them to this work: So that (for example) if a man with one Plough, and five or six horses, shall plough seven or eight-score Acres of Arable Land, and shall usually goe in the Summer with two Carts or Draughts; in this case, it seems he is to come with two Carts or Draughts to this

Service. And he that occupieth four ty or fifty Acres of Land, and keepeth only three Horses, and one Draught or Cart, he is to come with one Draught or Cart.

Thirdly, If a man keep only two Horses and a Cart for his own businesse : In this case it seems, he is to come with his Cart and two Horses, provided with a man or men to maniage them.

Fourthly, He that hath a Plough-land, and hath no Plough, but doth suffer his Land to lye fresh, yet is to finde and send a Plough to this work : And so it was agreed by the Judges in the Upper-Bench. *Mich. 21 Jac.*

Fifthly, A Plough-Land may contain House, Meadow, Pasture, and Wood ; and therefore, if one have so much of this, as will keep a Plough, and yeeld Tillage for it, if part of it were Eared up : In this case, it seems, he is bound to send his Plough, or else to pay for the same the penalty appointed by the Statute for his neglect.

Sixthly, He that keepeth a Plough or Draught for carriage albeit he occupieth little or no Land or Pasture, in his own hands ; yet such one it seems, is bound by the Statute to send his Plough to this service.

Seventhy, He that doth occupy a Plough Land lying in Tillage or Pasture, in severall Parishes, shall be chargeable to the amending of the High-ways in the Parish where he dwelleth, as farre as any person having a Plough-Land in any one Parish is chargeable.

Eighthly

Eighthly, Every person keeping in his hands and possession, severall or divers Plough-lands, shall be charged to finde in each Town or Parish where the Plough-lands (being in his occupation) doe lye, one Cart, &c. furnished for the reparation of the High-wayes in the severall Parishes where his Land doth lie, as if he were a Parishioner dwelling in the Parish where the Plough-land doth lie.

Ninthly, If a man be chargeable but as a Cottager, yet if he be in the Subsidy five pounds in Goods, or fourty shillings in Lands; so long as he stands at that Rate, he is to send two able men to the work every one of the six dayes.

4. If the Surveyors shall think any of the Ploughs or Carts to be needlesse any of the dayes, they may spare them, and instead thereof require two able men; the which must come, under pain to forfeit twelve pence a man for every default.

5. These Officers must see that the work be done according to the direction of the Statutes; and every man is to see that he doth his part therein. But if the Surveyors themselves shall licence any man to doe lesse than his work, this will excuse him.

6. The Owners of the grounds adjoyning to the High-wayes, are to take care that all the Fences, Hedges, and Ditches, next adjoyning on either side of the same, be from time to time Dicked, Scoured, Repaired and kept low; and that all the Trees and Bushes therein be cut down, under pain to lose

lose for every default ten shillings. And if any man hath any Ditch in his own Ground that doth serve to lead away the water out of the High-way, and he doth not scour and keep the same clean, so as to convey away the water; he shall forfeit for every Rood not so scoured 12 d. And if any man that hath a Ditch lying by the High-ways side, doth cast the same up into the High-way, and then suffer the same to lie there by the space of six moneths, to the annoyance of the High-way, he shall forfeit for every Load so cast up, twelve pence.

7. These Officers may, if they see cause for the Amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken Stones already digged of any mans Quarry lying within the same Parish, without leave of the owner, as they shall think needfull: But they may not without Licence dig in any mans Quarry for new Stones, much lesse take away any mans Stones already digged. And if there be no such Rubbish to be found in any mans Quarry, within the said Parish, then may they enter into any mans several ground (within the Parish) lying neer the place where the wayes are decayed, and there, if they see hope of finding Materials fit for reparation thereof, may dig a new Quarry without any leave of the owner of the grounds; or they may enter upon any mans Ground, and gather the Stones that lye disperfed there: But they may not without leave dig for any new Quarry in the House, Garden, Orchard, or Meadow of any man; nor (albeit it be in
other

other Ground) dig more than one pit, and the same in breadth or length not above ten yards over at the most; and then also they must take care that the same be within one moneth after filled up again at the charge of the Parish, under pain to forfeit five Marks to the owner of the Ground. And if there be any Spring or Water in the High-way that doth annoy the High-way, they may turn the same out of the High-way into any mans Ditches, according to their discretion.

8. They must within one moneth after any default is made in any of the particulars aforesaid, present the same to the next Justice of Peace, under pain to forfeit fourty shillings for every neglect. And this Presentment that Justice of Peace must present to the next Quarter Sessions, under pain of five pounds.

9. If any man offend against the Statute of 2 & 3 Phil. & Mary, (1.) If the Constables and Wardens shall not make a due election of Officers, and set down and give notice of the times and dayes for the work; or if the Surveyors doe not look to, and order the work; or the Parishoners doe not wait upon the work, as aforesaid: In all these Cases, the Offender may be punished by Fine or Amercement in the Quarter Sessions or Leet, according to the discretion of the Justices of the Peace, or the Steward. And these Fines and Amerciaments are to be levied and imployed by the High Constable, in such sort as is set forth in chap. 1. of the Constables Office in the beginning.

And

And if any man offend against the Statute of 5 Eliz. (i.) If these Officers after they have digged in any mans inclosed ground, shall not fill the Pit again, or if they shall not present the defaults to the next Justice of the Peace as aforesaid; or if any of the High-ways shall be unrepaired; or the owners of Grounds shall not cut up the Bushes, and scour their Ditches adjoining to the High-ways: In these cases the Offender may be punished by Fine at the Quarter-Sessions, according to the discretion of the Justices of the Peace. And these Fines are to be levied and imployed as Fines and Amerciaments levied upon the Transgressors of the former Statute. And if any man offend against the Statute of 18 Eliz. chap. 9. (i.) If any man cast soyl into the High-way, and doe not remove it within the time aforesaid; or doe not scour their Ditches, &c. and cut down their Bushes in their High-ways. The forfeitures of these men (being set down in certain by the same Statute) may be levied by these Officers immediately by distresse and sale of the Offenders Goods, upon a Warrant from the Justices of Assize, Justices of the Peace, or Steward of a Leet, before whom the persons shall be convict. And if they be negligent, and doe it not within a year, then the Constables or Church-wardens of the place may levie the same, as money is used to be levied upon an Amerciament in a Leet. But all these Fines and Forfeitures are now by the new Ordinance of Parliament, to goe to the new Surveyors, and by them to be laid out about the High-ways. Ord. 31. March 1654.

10. If all this labor appointed by the Statutes to be bestowed on the High-ways, be not sufficient for the amendment thereof, the Parish must supply it : For the Parishioners of every Parish are to look to their High-ways that they be well repaired and kept at their perill. For an Information or Indictment may be (by the very Common Law preferred for the Keepers of the Liberties of England, &c.) against the Inhabitants of a Parish for not repairing of their High-ways ; and there-upon they may be fined to the Keepers of the Liberty, &c. And in this case the Fine shall not goe to the use of the High-ways, as the Forfeitures and Penalties for the breaches of the Statutes shall doe.

See more for the amendment of the High-ways in *Suffex, Surrey, and Kent, Stat. 39 Eliz. c. 19. 27 Eliz. c. 19.*

And now as touching the new Ordinance, *Of the new Sur-* made for the repair of High-ways, and the *veyors* upon the new Surveyors Power and Duty therein, and new Ordinance, the Law at this day in this point, these things and their Office are to be known.

1. That there must be two or more sufficient *who must be* Household-ers of every Parish, severally hold-*chosen.* ing Lands of twenty pounds, or more, a year, *Numb. 3.* or that are worth one hundred pounds in personall Estate, chosen the first Tuesday after the twenty fifth day of *March* yearly : (And upon this day also it seems now the Surveyors also are to be chosen : And if no such choyce *20l. forfeit by* be made of these new Officers this day, then *the Parish for* the Over-seers of the Poor for that present *want of choyce,* time must be the Surveyors of the High-ways
also

CHAP. 13. *Supravisors of the High-ways.*

also upon this new Law. Also Scavengers (where any are) or (as it seems) they may be made in any Parish as new Officers : And there they are to be Surveyors, & have equall power with the Surveyors by this new Law. And now, at this day, by this we doe perceive that there are to be Supravisors for the High-ways, upon the former Laws, to over-see all the Work required to be done by them ; which is to be continued and performed still. And there are to be new Surveyors, by this new Law, to over-see the Work to be done thereby; and these are distinct Officers one from the other. And if these Officers execute their Offices faithfully but a while, their wayes will be so good, that there will be little to doe for either of them, for a long time afterwards.

*What they may
and must doe.
Numb. 4.*

The men of the Parish chosen to this Office, by this new Law, they are to see to these following things. 1. They must take upon them the Office, and procure themselves, within ten dayes after their choyce, to be sworn before some Justice of Peace, or forfeit ten pounds for their refusall. 2. They must repair and cleanse, and keep repaired and cleansed all the High-ways, common Bridges, Water-courses, Streets, and Pavements, belonging to the Parish. And in Cities and Towns corporate, all the Streets and Pavements therein, or the Suburbs thereof or neer adjoining to the same. And in other places where Pavements and Streets are, they are to look to them : And they are to reform common Nuisances herein. They are also to procure

secute all such as have streightned the High-wayes by Hedges, Ditches, Walls, or the like, within twenty years past; and such as doe not scour and dress their Hedges, Ditches, &c. and such as have any Pavements defective, or suffer any Nufance by filth or otherwise.

3. They are for this purpose, within ten *Twenty shillings* dayes after they have taken their Oath, to *forfeit, if neg-* view all the common and publick high-wayes, *lessed.*

and Roads where Carts and Carriages usually passe, and consider what is to be done, and what money to be raised to doe it.

4. They are, within six dayes after this view, to give notice in their Parish Church or Chappel, of a time and place of meeting, to be within three dayes after, to meet to make a Rate to raise money to doe it.

5. At that time and place they, with their, or the greater part of their Neighbours present, (if they can agree together) if nor, by themselves are to make a pound Rate in writing upon all the Occupiers of Houses, Lands, Tythes, Cole-Mines saleable Woods, Tenements, and Hereditaments within the Parish; And upon all the dead Goods, Commodities, or Stock in Trade, accounting twenty pounds therein, to be equall to twenty shillings a year in Land. And herein they may rate over and above all such men as doe suffer any Nusances in, or doe any hurt to the High-wayes: And so they may rate as oft as they please, so as they doe not exceed herein twelve pence in the pound for one year.

6. If these Officers and the rest of the Parishioners present cannor within two dayes of this meeting agree, then they themselves may

may make it : And being made, they must get it to be confirmed by the hand of one Justice of the Peace. And being thus made, it is become a perfect Rate, and not to be altered but by the Justices of the Peace in their Quarter-Sessions, or by two of the Justices then present at the Quarter-Sessions : And this Rate, if every man doth not pay it within seven dayes after it is made, and after publique notice is given for the payment of it, is to be doubled. 7. They are to hire Ploughs and Men, so many as they think fit : And the Men so hired must work, being required, for the wages that any two Justices of the Peace shall set down. 8. They may cause the Ditches adjoyning to High-ways, or serving to lead the water from them that are undressed or unscoured, to be dressed and scoured. And for any water-course that doth run into or stand in any High way to annoy it, they may stop it or turn it into any adjoyning Ditch ; or they may make new Ditches in convenient places through the grounds adjoyning, for the conveyance thereof another way. And they may cut, plash and keep low all the Trees, Bushes and Hedges standing in High-ways, or that are suffered to grow up by them, to keep the strength of the Sun from them. 9. They may digge and take Stones, Gravell, Sand, Cynder, Chalk, or any thing fit for the mending of the High-ways in any common ground. And if none be to be found therein, or no such Common there, then they may take it in any private mans Ground, Pasture, or Fallow in or neer the Parish.

Parish. And they may make a convenient way to carry it through any mans ground at seasonable times : but for this way, and for materials taken out of a private mans ground, they are to give to him reasonable satisfaction such as they can agree upon; and if they cannot agree upon it, then such as any one Justice of Peace, not interested in the thing, and indifferently chosen between them, shall set down. 10. If the Parish by the Rate of twelve pence in the pound in the whole year, cannot sufficiently amend their High-ways, the Surveyors may by the help of the Justices of the Peace get them help from other Parishes that are under that Value in the whole year, untill their whole charge come up to this Rate. And if there be any thing given towards the repair of their High-ways, which is not employed, or mis-employed, they are to seek to the Justices of Peace for relief herein. 11. These Officers, also may, and so may any Constable or other man within the Parish, take all the Horses, Mares, and Oxen that are in Carts and Waggon loaden, drawn through the Parish, that are over and above five Horses or Mares, or six Oxen and one Horse in one Cart or Waggon. And if the Owner doe not within seven dayes after the taking thereof, pay twenty shillings to the Parish wherein they were taken, for every Oxe, Mare, or Horse, over and above the number aforesaid, with the charge laid out about it, and for the keeping of it; then he may sell the same and deduct so much of the money. But the over-plus

charitable uses:

Supernumeraria Cattel in a Plough.

N he

By-Lawes.

he must give back to the Owner. 12. If all this will not doe, to redresse the defects of pavements and water-courtes, and to make them run freely; and for the removing of filth and other Nufances in streets, and other by-places, the Inhabitants of the Parish may make by-Lawes for a speciall Rate upon the Parish, and make speciall Officers, and put penalties upon Offendors, and other things to doe it. And these Rates and penalties may be levied by distresse and sale of the Goods of the party, by warrant from any Justice of the Peace; and these By-lawes they may have confirmed by the Justices of the Peace in their Quarter Sessions. 13. They are to imploy and bestow all the Rates, Penalties, Fines and forfeitures, & arising by this new Ordinance, or by any other Lawes touching High-ways and Streets; and all Issues to be forfeit for not appearing to any Information or Indictment for not repairing High-ways, or not removing or reforming of Defects or Nufances in Streets or High-ways; and all Fines and Amercements to be set upon any place or person for not repairing High-ways, Streets, or Water courtes, to pay for Workmen and Ploughs, and to doe other things to be done by this Ordinance. 14. Those Rates and penalties these Surveyors, or any of them may levy by distres and sale of Goods of the party, by a Warrant from any one Justice of the Peace; and for lack of distresse, or not payment thereof within ten dayes after demand made or left in writing, under the hands of the Surveyors or either of them at his house, who

Distresse.

who is to pay it, the party may, by warrant of the Justice, be committed to Gaol without Bail untill he pay double the money to be paid, and the charges of prosecution for the recovery of it. 15. They are within a moneth of the end of the year in their Office, to give in to the Parish at some meeting, to be by them appointed, a just and perfect Account of all the money by them received, and laid out, in the time of their Office; and they are to pay over the money then remaining in their hands to their Successors. And herein they may deduct the money they have laid out in the prosecution of such as doe any Nufance in the High-way; and upon his neglect or refusall that is a Surveyor, any Justice of Peace may commit him to Gaol without Bail, till he make such Account and payment, and such satisfaction to the Parish for the wrong as any one Justice of the Peace shall set down. 16. And if any of these Officers, or any other, be sued for any thing done in these things, the Action must be laid in the County where it was done, he may plead to it the generall Issue: And if the case appear so, the Jury must fine for the Defendant; and then, or if the Plaintiff be Non-suit, or discontinue his Action, the Defendant shall have his full costs he hath laid out, to be set down by his own Oath, and ten pounds more to make him amends for his vexation, *Ordinance of the Lord Protector and his Councell, March 31. 1654.*

Accounts



CHAP. XIII.

Of the Register of a Parish and his Office.

*what he is, and
how he is chosen.*



IHe Register of a Parish is a new Officer chosen by the Parish, and allowed by the Justices of the Peace for the publication of Contracts of Marriages, and for the taking and keeping of the entries of all the Marriages, Burialls, and Christnings of the Parish. He is to be chosen by the Parish, and approved and sworn by a Justice of Peace, and the same entered upon the Register book of the Parish: And then he is to continue three years in his Office and longer, till another be chosen; unless the Justice of Peace, or Justice of Peace and Parish together, put him out in the mean time.

*His Office and
Duty.*

This Officer is to receive a note in writing from any one or both of his Parish, or one of his,

his, and one of some other Parish, that intend Marriage, of their Names, Surnames, Additions, and places of abode, of the parties to be married, and of their Parents, Guardians, and Overseers.

2. This he is to publish, or cause to be published three severall Lords dayes then next following, at the close of the morning exercise in the Church or Chappell; or, if the parties to be married desire it, in the Market-place next thereunto, on three Market dayes, in three severall weeks next following, between the hours of eleven and two of the Clock.

3. Upon request of the parties concerned he is to make a true Certificate of the due performance hereof.

4. If any exception be made against the same intended Marriage, he must insert the same, with the name of the person making the exception, and his place of abode in the Certificate of publication.

5. It were very convenient for him to be present at the Marriage, for he is to attend the Justice of Peace to subscribe the entry of the Marriage.

6. He is to call for, receive and keep the old Church-Book, and to call for of the Parish, a new Register parchment Book, which the Parish must provide, and he must keep; And therein he is fairly to enter in writing all the publications of Marriages, Marriages, Births of Children, and Burials of all sorts of persons, and the names of every of them, and the dayes of the moneth and year of publications, Marriages, Births, and Burials,

CHAP. 14.

The Register of a Parish.

and the Parents, Guardians, or Over-seers names. And for this his Fees are as followeth : For the publication and Certificate of a Marriage, twelve pence; and for the entry of a Marriage, twelve pence : And for the entry of the Birth of a Childe, four pence; and for the entry of the Death of any man, four pence. And for all this, for poor people that live upon Almes, nothing : But by the Ordinance of 3. Jan. 1644. it was ordained, That such a Book should be provided in every Parish, and kept by the Minister and other Officers of the Church; and that therein the names of all Children and their Parents, the time of their Birth and Baptisme, and of all persons married, and the time of all buried, and the time of their Birth and Buriall be written and set down by the Minister there. And that the same Book shall be shewed forth by such as keep it, to all persons reasonably desiring to search for any such thing, or take a Copy, or procure a Certificate thereof.

So that now by this the Minister must take care of this also; for this power is not taken from him by the new Law, being in the affirmative : Therefore he and the Register must doe it together, or else he must be made Register; and this is the best way.

CHAP.



CHAP. XV.

Of a Parish-Clerk, and his Office.

THe Parish-Clerk is a Lay Officer of a Parish, chosen according to the Custom of the place, to attend upon the Minister, and Church-wardens, about holy things. This Officer may be a Lay man, and is to be chosen according to the Custom of the place; if usually the Parish have chosen him, so he must be chosen; and that election will stand, and no Canon of the Church, when Canons were in force, could have altered it; and therefore in this case if the Parish, according to Custom, had chosen one man; and the Minister of the Parish, and the Bishop, or Chancellor of the Diocese had chosen another, according to the Canon, the Clerk chosen by the Parish should have stood; And the Ordinary might not have de-

CHAP. 15.

A Parish Clerk.

prived him, *Jac. Co. B. Candist and Plum case*
Hugh Rep. 163. Nor can the Parson of a
 Parish put a Clerk so chosen out of his place
 without cause, or interrupt him; he may have
 an Action against him, as another man that is
 interrupted in any Lay Office, *March. Rep. 101.*
pl. 174.

His Office lyeth only in and about these
 things; To set the Bread and Wine and Cups
 decently upon the Communion Table, to pro-
 vide water for Baptizing, make and keep
 clean the Church, put the Bible and C

for the Minister, begin the Psalm,
 ring the Bell or Bells, and such like things.
 See the same case.

His Wages.

If any of the Parishioners withhold his wages,
 he may be relieved herein by any two Justices
 of Peace, who may by warrant require pay-
 ment thereof: and these two Justices may, by
 warrant, under their Hands and Seals, order
 the Parishioners to pay it. And if they refuse,
 as it seems, send their Warrant to levy it by
 distress and sale of Goods, and for lack hereof,
 send the party to Gaole till he pay it. But
 without question the two Justices may binde
 the Parishioners over to the Quarter-Sessions
 one year; if the Parishioners refuse to obey
 their Order, the Sessions may binde them to
 the Good-behaviour; or upon indictment for
 their contempt, fine and imprison them; *Or-
 din. 9. Feb. 1647.*

CHAP.



CHAP. XVI.

Of a Hayward of a Parish or Manor, and his Of- fice.



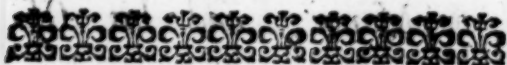
He Haward or Hayward of a *what.*
Parish is an Officer of a
Parish chosen and sworn in
a Leet, for the Town, to be
the common Heard of the
Town, *Kitch. 46.*

The Law taketh not *His Office.*
much notice of this Officer, but it is said, He
is to keep the Hedges of the inclosed Grounds
of the Parish, so that they be not cropt nor
broken down, and the grasse of the Parish
from the destruction of Cattell, so that hay
be made thereof: That he is to execute such
Process of the Lords Court, as doe come from
the Lord or his Steward of his Court there.
That he is to present all POUND Breaches
made there, and all Wayffs and Estrayes that
shall come there. But if he doe not so, we
know

CHAP. 17. *The Bayliffe or Reeve of a Manor.*

know no Law to enforce him to it, nor to punish him for neglect of it.

But the best use that we know is, or can be made of him, is to look to the common Fields and Commons of the Parish; and to doe his best to prevent and to restrain Trespases and spoil. But herein he can do nothing more than any other Servant, nor otherwise than as a Servant to the parties trespassed, and by authority or allowance from them.



CHAP. XVII.

Of the Bayliffe or Reeve of a Manor, and his Office.

what he is.



He Bayliff or Reeve of a Manor is an Officer of a Manor chosen by the Lord of a Manor to dispose of his Affairs concerning the Manor.

Of this Officer the Law doth take some more notice. And his Office is said to lie in these things.

His Office.

1. He is to collect the Lords Rents, Fines, Harryots, Amercements, and other profits happening

pening within the Manor, as they growe due.

2. He may seize or distrain for them, *ex Officio*, where seizure and distress is justifiable, as Bayliffe, without any speciall command of the Lord.

3. He may also pay any Rent due, out of the Manor, to any other person.

4. It is said, He may also order his Masters Husbandry, distrain Beasts, Damage feasant, repair any Houses, Hayes, or Pales, and for that purpose cut down any Timber or Trees. That he may take any Cattell for his Master to compast his ground as an Agistment. That he may cut down Underwoods that have been used to be cut, and doe any other such like thing for the bettering and improving of his Masters Land and Manor. But it is not safe for a Bayliffe (as we conceive to take too much herein upon him without some speciall authority from the Lord; nor very safe for others to joyn with him herein, unlesse they be sure of his authoritie, or he hath been long Bayliff there, and hath been used alwayes to doe such things as Bayliff. But it is agreed of all sides, That if he build any new House, or set up any old House that is fallen, or make any new additions or alterations, as eyle the House which before was thatched, or pale it where before it was hedged, or the like, without a special command from the Lord so to doe, he will be a Trespassor to the Lord by it.

5. These also are to over-see and order the labours of other Labourers and Servants that are under them, about their Masters work.

6. And

6. And lastly, They are to give account to their Lords of all their receipts and disbursements, and pay in to them the money remaining in their hands, being required. And if they refuse, the Lord may compell them hereunto by an especiall Action of Account given to him for his relief in the Case, *Broo. Bayliff* 31. 8 Ed. 4. 13.



CHAP. XVIII.

Of such Watchmen as keep watch and ward.

The power and Duty of them.



He Office and Power of a Watchman and Wardsmen lyeth in these things.

1. They are, being required by the Constable, to watch and ward from *Ascension* till *Michaelmas*; the Watchmen from Sun set to Sun rising; and the Wardsmen from Sun rising to Sun set.

2. These Officers are to pose all men, and to arrest and secure all Rogues and suspicious persons, and if it be in the night, to keep them

them till the morning, and then bring them to a Justice of Peace to be examined; or if they will, they may deliver them to the Constable, who must take care of them. And if any resist them and break away, they may send Hue and Cry after them.



CHAP. XIX.

Of the Minister of a Parish.



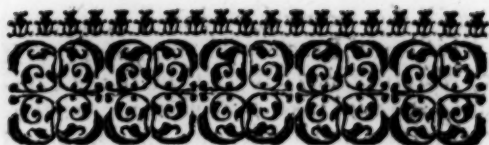
He Minister of a Parish his *His Office and Duty.*
Office about civill matters, lyeth in these things only.

1. He must keep a Register Book.
2. He must herein enter a Testimoniall, or Passe, of all the Rogues that are taken up and whipped in the Parish.

3. He must herein enter all the Licences he gives to sick persons, to eat flesh in Lent.

4. He must also enter therein all Testimonials of Servants, departing from their Masters.

CHAP.



CHAP. XX.

Of Owners and Rulers of Fairs and Markets, and their De- puties.

*Their Office and
Duty.*



He Office of Rulers, and
Owners of Fairs and Mar-
kets lyeth in these things.

1. They must appoint
one certain open place in
the Fair or Market, for sale
of Horses, Geldings, Mares
and Colts, and one sufficient person to take
Toll, and keep the place.
2. This Deputy or person so appointed, must
take Toll there from ten a clock to Sunset, up-
on the Market or Fair day.
3. And he may take Toll after or before or
in another place.
4. When any Contract is made about the
sale of any horse, the parties contracting, and
the horse about which the Contract is made,
must be present.

5. He

Owners and Rulers of Faires, &c. CHAP. 20.

5. He must have and keep a Book to enter all Contracts of Horses.

6. He must there enter and write down the names of the Persons contracting, the place of their dwellings, and colour, or some other speciall mark of the Horse.

7. If he know the Seller himself, he may enter it as upon his knowledge, the name of the Seller, & place of his dwelling, mystery, price, & otherwise he must take the same knowledge from some one credible person that will testifie it; and then he must enter also in the Book the Names, Mystery, and place of dwelling of the Testifier.

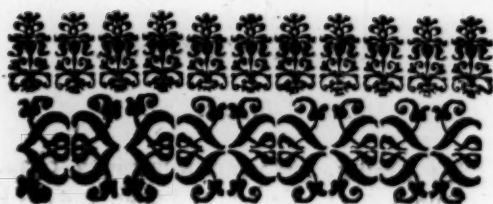
8. He must give a note of this entry out of his Book to the Buyer, so he will pay him twopence for it.

9. This Clark or Register is, within a day after the Fair or Market, to bring his Book to the Governor or Master of the Fair.

10. This Governor is then to cause a Note to be made of all the Horses sold, and to subscribe his name or mark to it. *Stat. 31 Eliz. 21. 2 & 3 Pb. & M. 7.*

F I N I S.

1. The first part of the history of the
2. The second part of the history of the
3. The third part of the history of the
4. The fourth part of the history of the
5. The fifth part of the history of the
6. The sixth part of the history of the
7. The seventh part of the history of the
8. The eighth part of the history of the
9. The ninth part of the history of the
10. The tenth part of the history of the



THE TABLE.

A

Account.

W Here Constables and such like Officers
are bound to Account, chap. 7.
numb. 20. sect. 1. chap. 11. numb. 8.

Adultery, see Bawdry.

Affrayes.

*What Constables and others may and ought to doe,
to prevent and allay an Affray, chap. 7. sect. 1.
numb. 5, 6, 7. sect. 2. numb. 1, 5, 6.*

Aid.

*What Aid Constables may require of other men in
the execution of their Offices; and what Aid
such men are bound to yeeld them, chap. 7.
sect. 1. numb. 9. sect. 2. numb. 4, 6, 10.*

O

Allowances,

The Table.

Allowances, *see* Account.

Arrest.

What Arrest is, and where it is lawfull, chap. 7.
numb. 6, 11, 18. sect. 2. numb. 3, 4, 8, 12,
13, 15, 16.

B

Bayliff or Reeve of a Manor.

How he is made, and his Office, chap. 17.

Bawdry.

How it is to be punished, chap. 7. sect. 2. numb.
1, 5.

C

Church-Wardens.

How made, chap. 11. numb. 1.
Their Office and Duty, chap. 11. numb. 1, 2.
3, &c.

Clerk or Sexton of a Parish.

How made, chap. 15.
His Office, chap. 16.

Constables.

The Table.

Constables.

What these Officers are; and who may be chosen thereunto, and how, and their Oath, chap. 1. sect. 2. chap. 7. sect. 1, 2.

Their Office and Duty about the Peace, and in case of Affrayes, chap. 7. sect. 1. numb. 5, 6, 7. sect. 2. numb. 1, 5, 6.

About Fellows, chap. 7. sect. 1. numb. 6. sect. 2. numb. 1, 2, 8, 9.

About Adulterers, chap. 7. sect. 2. numb. 1.

About them that threaten Murder, chap. 7. sect. 2. numb. 5.

Or attempt to Rob, chap. 7. sect. 2. numb. 13.

About Night-walkers, chap. 7. sect. 1. numb. 6. sect. 2. numb. 2.

About them that make Insurrections, Ryots, chap. 7. sect. 2. numb. 4.

About an Inne-keeper refusing to receive a Traveller, chap. 7. sect. 9.

About Swearers, chap. 7. sect. 4.

About Purveyors, chap. 7. sect. 11.

About the Profaners of the Lords day. chap. 7. sect. 3.

About Clothiers, chap. 7. sect. 16. sect. 9.

About Alehouse-keepers, Drunkards, &c. chap. 7. sect. 9.

About him that doth disturb a Minister in preaching, chap. 7. sect. 10. numb. 4.

About Stage-Playes, chap. 7. sect. 10. numb. 2.

About a Rogue, chap. 7. sect. 6.

About Hue and Cry, chap. 7. sect. 2. numb. 10, 13.

About Servants departing out of their Masters service

The Table.

- Service without a Testimoniall, chap. 7. sect. 10. numb. 5.*
About May-poles, chap. 7. sect. 10. numb. 1.
About Recusants, chap. 8. sect. 11.
About Maulsters, chap. 8. sect. 10. numb. 10.
About them that dresse Meat in Lent, chap. 8. sect. 11.
About Hedge-breakers, chap. 8. sect. 10. numb. 9.
About Labourers that will not work, chap. 7. sect. 10. numb. 3.
About suspicious persons, chap. 7. sect. 1. numb. 1, 8, 9, 14, 15. sect. 2. sect. 6. numb. 4.
About Watch and Ward, chap. 7. sect. 2. numb. 2.
About Rates, chap. 7. sect. 8. chap. 8. sect. 2.
About an Abjured person, chap. 7. sect. 11.
About Takers of Pheasants, chap. 7. sect. 11.
About High-ways, chap. 7. sect. 10. numb. 7. chap. 8. sect. 3.
About them that have the Plague, chap. 7. sect. 10. numb. 8.
About taking Fish, chap. 7. sect. 11.
About a Presentment, chap. 7. sect. 12.
About carrying a Prisoner to Gaole, chap. 7. sect. 2. numb. 5, 6, 7, 10, 13, 15. sect. 6. numb. 8.
About the receiving and paying of Money, chap. 7. sect. 8.
About the petit Sessions, chap. 7. sect. 7. numb. 4.
About the Execution of Precepts from others, chap. 7. sect. 1. numb. 17. sect. 2. numb. 14.
Where they may justifie the breaking of a House, chap. 7. sect. 1. numb. 10. sect. 2. numb. 10.
Arrest a man out of their Precinct, chap. 7. sect. 1. numb. 11. sect. 2. numb. 6. chap. 1. sect. 6.

where

The Table.

*Where they may beat, wound, or kill, a man, chap. 7.
sect. 1. numb. 14. sect. 2. numb. 6, 5, 11,
15.*

*Where they may arrest the body of a man, chap. 7.
sect. 1. numb. 6, 11, 18. sect. 2. numb. 12.*

*Where, and how they may search, chap. 7. sect. 2.
numb. 9, 11, 14, 15. sect. 1. numb. 6, 11, 18.*

*Where they may imprison a man, chap. 7. sect. 1.
numb. 14.*

*Where they may seize Goods, chap. 7. sect. 2.
numb. 11. sect. 3. sect. 2. numb. 4. chap. 1.
sect. 4, 5, 6.*

*Where they may Fetter or Pinion a man, or put
him in the Stocks, chap. 7. sect. 1 numb. 11,
12, 13.*

*Where they may let a Prisoner goe, chap. 7. sect. 2.
numb. 10.*

*What Account they must make, chap. 7. sect. 1.
numb. 19, 20, 21.*

The Office of Constables of Towns, chap. 10.

The Office of High-Constables, chap. 9.

Correction House, see Governor.

Customs.

*What Customs or Prescription is good in choice of
Officers, chap. 7. sect. 2.*

F

Faires and Markets.

*The Owners and Rulers of Faires and Markets,
and their Office, chap. 20.*

The Table.

G

Gaole, see Keeper.

Governour of the House of Correction.

what he is : His Office and Duty, chap. 5.

H

Hayward.

How he is made : His Office, chap. 16.

K

Keeper of the Gaole.

His Office and duty, chap. 6.

M

Ministers.

The Ministers Office about civill things, chap. 19.

O

Officers.

Of Officers in generall, chap. 1.

Overseers of the Poor.

what they are, and how made, chap. 12.

R

The Table.

R

Register of a Parish.

How he is made : His Office and Duty, chap. 14.

S

Supravisors or Surveyors of the High-ways.

How they are made : And their Office and Duty, chap. 13.

T

Treasurers of the County-Stock.

For maimed Souldiers, widdows and Children, chap. 2.

For relief of Prisoners in the Kings Bench and Marshalsey.

For the Prisoners in the Gaole.

W

Watchmen.

Their Office and Duty, chap. 18.

FINIS